



W.P.(MD)No.20319 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.20319 of 2024

and

W.M.P.(MD)Nos.17245 and 17247 of 2024

T.Kesavaraj

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai – 34.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
14/1, Trivandrum Road, Palayamkottai,
Tirunelvi – 627 002.

3.The Executive Officer,
Arulmigu Athimoolavinayagar & Santhana Mariyamman Temple,
Ozhuginaserry,
Vadeveeswaram, Nagercoil – 629 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records in the impugned demand notice dated 18.10.2023 issued by the third respondent and the proceedings initiated by him before the second respondent in எம்.பி. – 4 / 2024 / 12 / dated 23.04.2024 and quash them and direct the second respondent to fix the rent from 01.07.2016 onwards, under Section 34-A of the



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Act, strictly complying with the order dated 20.07.2022 passed in W.P.(MD)No. 15040 of 2022, by giving due credit to the rental amount and deposits already made by the petitioner after the said date of 01.07.2016, within a time limit, as may be fixed by this Court.

For Petitioner : Mr.C.Thanaseelan

For R-1 and R-2 : Mr.K.S.Selva Ganesan
Additional Government Pleader

ORDER

This Writ Petition is filed challenging the impugned proceedings dated 18.10.2023, whereby the third respondent issued a demand notice for the lease rent for the period commencing from 01.11.2001 till date, stated to be on the basis of the rent fixed by the Fair Rent Fixation Committee.

2. The table below provides the calculation for the impugned demand:

வ.எண்	காலம்	நியாய வாடகை நிர்ணய குழுவால் நிர்ணயம் செய்யப்பட்டுள்ள தொகை (ரூபாய்) மாதம் ஒன்றிற்கு
1.	01.11.2001 முதல் 30.06.2004 வரை	9202 / -
2.	01.07.2004 முதல் 30.06.2007 வரை	10,583 / -
3.	01.07.2007 முதல் 30.06.2010 வரை	14,270 / -
4.	01.07.2010 முதல் 30.06.2013 வரை	18,455 / -
5.	01.11.2013 முதல் 30.06.2016 வரை	25,880 / -
6.	01.07.2016 முதல் 30.06.2019 வரை	35,900 / -
7.	01.07.2019 முதல் 30.06.2022 வரை	45,995 / -
8.	01.07.2022 முதல் 30.06.2025 வரை	50,100 / -



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3. Importantly, it is submitted by the learned counsel for the petitioner that the Fair Rent Fixation Committee itself has fixed the fair rent vide proceedings dated 25.09.2023. The learned counsel for the petitioner further submitted that any rent which is fixed by the Fair Rent Fixation Committee can only be prospective and not retrospective. However, the impugned proceedings of the third respondent chooses to make a demand from 2001 till date. It is also submitted that they have not received any communication from the Joint Commissioner of the fair rent which is fixed pursuant to the recommendation of the Fair Rent Fixation Committee. It is submitted that unless they are served the copy of the Joint Commissioner fixing the fair rent on the basis of the committee's report, it may not be possible for them to prefer an appeal.

4. It is submitted by the learned Additional Government Pleader for the respondents 1 and 2, that the respondents would serve the copy of the Joint Commissioner's report within a period stipulated by this Court and the same is acceded to by the learned counsel for the petitioner.

5. This Court finds that there is merit in the submission of the learned counsel for the petitioner that any fair rent fixed by the Fair Rent Fixation



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Committee can only be prospective and not retrospective. Further, the petitioner seeks liberty to file an appeal under 34-A(3) of HR and CE Act, before the Commissioner. Importantly, Section 34-A(5) provides that no appeal or revision shall be entertained under sub-section (3) or sub-section (5), as the case may be, unless it is accompanied by satisfactory proof of deposit of the lease rent so fixed or refixed, in the account of the religious institution concerned and such amount shall be adjusted towards the lease amount payable by the lessee as per the order passed in the appeal or revision, as the case may be. Thus, an appeal against the order fixing the fair rent would be entertained only if it is accompanied by the satisfactory proof of deposit of the lease rent fixed which would include the retrospective demand which is impermissible and contrary to the orders of the Division Bench of this Court.

6. It was submitted by the learned counsel for the petitioner that the petitioner may be permitted to file an appeal along with the satisfactory proof of deposit of lease rent fixed vide Committee report dated 25.09.2023, from the date of such report and the same is acceded to by the learned Additional Government Pleader.



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7. In view thereof, the respondents shall serve the copy of the Joint Commissioner's report within a period of two weeks from the date of receipt of a copy of this order. The petitioner is at liberty to file an appeal within a period of four weeks from the date of receiving the Joint Commissioner's report. If the petitioner chooses to file an appeal, he will have to make a pre-deposit of the enhanced fair rent fixed by the committee from 25.09.2023 onwards along with the appeal. If such appeal is filed within the stipulated period along with fair rent fixed by the committee from 25.09.2023 and the admitted rentals due until 25.09.2023, the same shall be disposed of within a period of four months from the date of filing of the appeal.

8. This Writ Petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To:

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MOHAMMED SHAFFIQ, J.

Nsr

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