



W.A.(MD)No.2074 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.(MD)No.2074 of 2023

and

C.M.P.(MD)No.16660 of 2023

- 1.The State of Tamil Nadu,
Represented by its,
Principal Secretary to Government,
Department of Tourism, Culture and
Hindu Religious and Cultural Affairs,
Secretariat,
Chennai.
- 2.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Gandhi Road, Nungambakkam,
Chennai.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
542/30, Plot No.49, M.R.S. Nagar,
Mullippadi, Seelappadi Post,
Dindigul District.



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4.The Executive Officer,
Vandikaliyamman Temple,
O/o. The Sithivinayagar Kovil,
Near Railway Station,
Dindigul District.

: Appellants

Vs.

P.Balakrishnan

: Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent,
praying to set aside the judgment dated 17.07.2023 made in
W.P.(MD)No.11117 of 2023, on the file of this Hon'ble Court.

For Appellants : Mr.P.Subbaraj
Special Government Pleader
For Respondent : Mr.M.Ajmal Khan
Senior Counsel

JUDGMENT

[Judgment of the Court was delivered by **R.SURESH KUMAR, J.**]

This Appeal has been directed against the order passed by
the Writ Court in W.P.(MD)No.11117 of 2023 dated 17.07.2023.

2.The respondent is a lessee under the fourth appellant /
temple with regard to the land where he has built up the
superstructure. As per the lease agreement, rent has to be fixed
and it has to be paid periodically by the respondent / lessee.



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3.When that being so, the fourth appellant / temple seems to have fixed the rent for a total extent of 2436 sq. ft. However, according to the respondent / writ petitioner, he had been in occupancy only in 1800 sq.ft at Door No.2/1, Thadicombu Road, Vanivilas Medu, Dindigul District. Hence, the respondent / writ petitioner has moved the said writ petition seeking for a Writ of Mandamus to the appellant department, especially the temple authorities to refix the rent in respect of the land to the extent of 1800 sq. ft alone.

4.When this controversy was taken up for hearing by the Writ Court, it was stated on behalf of the fourth appellant / temple that the respondent / writ petitioner had been in occupancy of 2081 sq.ft and not 1800 sq.ft, as claimed by him.

5.Taking note of these submissions made by the temple authorities, the learned Judge directed the temple authorities to resurvey the land which was granted lease and thereafter fix the rent only for the area which is in actual occupancy of the respondent / writ petitioner. Learned Judge also directed that rent seems to have been fixed by the temple for the superstructure also. However, since the superstructure has been put up by the respondent / writ petitioner, rent cannot be fixed for the same by the temple authorities and only ground rent, that too for the land



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which is in actual occupancy of the respondent / writ petitioner can be fixed. This is the order passed by the Writ Court which is impugned herein.

6. Heard the learned Special Government Pleader appearing for the appellants and the learned Senior Counsel appearing for the respondent.

7. Learned Special Government Pleader would submit that during the pendency of this Writ Appeal, survey has been in fact conducted where they found that the respondent / writ petitioner has been exactly in occupancy of 2125 sq.ft. However, since the notification for lease was issued for 2436 sq.ft, that was a mistake, based on which, rent was calculated for 2436 sq.ft. However, the actual occupancy of the respondent / writ petitioner is only in 2125 sq.ft., for which, the temple is ready and willing to fix the rent and accordingly, the rent will be fixed and it has to be paid by the respondent / writ petitioner.

8. Learned Special Government Pleader would also submit that insofar as the superstructure is concerned, if it is constructed by the respondent / writ petitioner, no separate rent would be collected for the superstructure constructed by the respondent / writ petitioner.



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9. Learned Special Government Pleader also would submit that four years lease period is over and therefore, at this juncture, the relief granted by the Writ Court whether to be sustained also to be gone into.

10. We have also heard the learned Senior Counsel for the respondent / writ petitioner, who would submit that even according to the admitted fact of the appellant department, especially the temple authorities, the respondent / writ petitioner has been in occupancy only in 2125 sq.ft and insofar as the rent fixed for the superstructure is concerned, that can also be not made.

11. Therefore, the direction issued by the learned Judge to revisit the issue with regard to the survey of the land and thereafter to fix the rent for the actual occupancy of the respondent / writ petitioner without collecting the rent for the superstructure is fully justifiable and therefore, the order impugned requires no interference at the hands of the Division Bench. He also contended that though the lease period is for four years, it is renewable with mutual consent of both parties with whatever terms and conditions agreeable by both sides.



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12.We have considered the submissions made on either side and have perused the materials available on record.

13.It is an admitted fact that the respondent / writ petitioner has been in occupancy of 2125 sq.ft., alone. Therefore, if at all rent has to be fixed, the same has to be fixed to the extent of that area alone and not for 2436 sq.ft.

14.Like that, since the superstructure is built up only by the respondent / writ petitioner, that too, after getting approval from the temple authorities, such kind of superstructure cannot fetch any rent for the temple authorities and therefore, to this extent, the direction given by the Writ Court cannot be found fault with. Insofar as the plea with regard to the renewal of the lease is concerned, it is up to the fourth appellant / temple as well as the appellants to decide as to whether the lease has to be further extended or not. In that regard, we do not express any opinion, since that question has not been decided by the Writ Court.

15.With all these observations, since the order impugned does not require any interference except the aforesaid clarification to fix the rent for 2125 sq.ft. ie., ground rent alone and not for superstructure, this Writ Appeal is disposed of. There shall be no



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order as to costs. Consequently, the connected miscellaneous petition is closed.

[R.S.K.,J.] & [G.A.M.,J.]
23.07.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

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To

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Department of Tourism, Culture and
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R.SURESH KUMAR, J.

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G.ARUL MURUGAN, J.

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ORDER MADE IN

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