



WEB COPY

W.A.No.206 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.No. 206 of 2023
and
C.M.P.No. 2090 of 2023

P.Kannan

.. Appellant

VS

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
119, Uthamar Gandhi Road,
Nungambakkam, Chennai – 600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Mayiladuthurai,
Mayiladuthurai District – 609 001.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Mayiladuthurai,
Mayiladuthurai District – 609 001.
- 4.The Executive Officer,
Arulmigu Manmatheeswararthiru Koil,
Kuttalam Taluk,
Mayiladuthurai District – 609 801.

.. Respondents

Prayer : Appeal filed under Clause 15 of Letters Patent against order dated
03.01.2023 made in W.P.No. 7552 of 2021.



W.A.No.206 of 2023

WEB COPY

For Appellant : Mr.U.Kathiravan
For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader

JUDGMENT

(Delivered by Dr. ANITA SUMANTH.,J)

The writ petitioner is the appellant. The writ petition had been filed seeking a writ of certiorari to call for the records of the Commissioner, Hindu Religious and Charitable Endowments Department / R1 dated 09.03.2020. In that order, R1 has dismissed the revision petition filed by the writ petitioner on the ground that he was not paying fair rent in respect of the property at S.No. 176/2 ad-measuring 1600 sq feet in the vicinity of Manmatheeswararthiru temple (premises / premises in question).

2. It was the stand of the appellant before the writ court that he had been paying the rent as originally fixed by the authorities, regularly. According to him, there had been no order of fixation of fair rent that had been served at any time and hence the order of the Commissioner confirming his eviction was incorrect.

3. The learned Additional Government Pleader who had appeared before the writ court contended that the fair rent had in fact been fixed with effect from 01.07.2016 and the total arrears payable by the petitioner amounts to a sum of Rs.15,62,592/-. Out of the aforesaid amount, sum of Rs.5 lakhs had already been paid to the authorities.



W.A.No.206 of 2023

4. Filing of statutory appeal in in terms of Section 34-A(3) of the Hindu Religious and Charitable Endowments Act, 1959 (Act) would require pre-deposit of the entirety of the balance amount to be paid. The writ court has recorded at paragraph 5 that the petitioner had in fact acceded that he would pay 50% of the amount i.e., Rs.7,30,156/- that was the balance of the arrears.

5. Hence the Court concluded that if 50% of the balance was paid by the petitioner then yet another copy of the fair rent proceedings shall be served upon him and this shall pave the way for writ petitioner to file statutory appeal in terms of Section 34-A(3) of the Act. In such circumstances, the petitioner could canvass his case before the authorities in accordance with law. The Court also made it clear that if the amount was not paid within the period stipulated, for which 30 days was granted, he cannot avail the benefit granted under that order.

6. Section 34A requires that if any person is aggrieved by an order of rent fixation, he may file an appeal within 30 days from date of receipt of the order accompanied by satisfactory proof of deposit of the lease rent fixed or re-fixed. Hence the writ court has been more than generous in restricting the amount to be paid by the writ petitioner to 50% of the balance of fair rent and not the entirety, as required by the statute.

7. Admittedly, the appellant has not complied with the directions at paragraph 7 of the order of the writ court and hence he would have to suffer the consequences. It is also to be noted that the appellant has not



W.A.No.206 of 2023

been in a position to persuade this Court to grant an interim stay of the impugned order passed in 2023, despite which, he continues to be in occupation of the premises in question.

8. Yet another development that has transpired pending this writ appeal is that an order had come to be passed by the Joint Commissioner on 10.02.2025 for eviction of the writ petitioner pursuant to the order passed by the Commissioner confirming the order holding him to be an encroacher in terms of Section 78 of the Act.

9. The appellant had challenged that order in W.P.No.5521 of 2025 and after noticing the entire trajectory of the matter, including the fact that the petitioner has not complied with the directions under order dated 03.1.2023, dis-entitling himself to the statutory remedies available under the Act, the writ petition was disposed keeping open the liberty of the petitioner to pursue the present writ appeal. In effect, the prayer in that writ petition came to be rejected.

10. As far as the present writ appeal is concerned, learned counsel for appellant would only reiterate the submissions made in the writ petition itself, drawing attention to the effect that pre-revised rent has been paid by him and that it continues to be paid.

11. We are not impressed with the submissions made for the reason that, that position has already been taken note of by the learned Judge in the impugned order. It is only after taking note of this factual position that liberty was granted to the writ petitioner to move a statutory appeal, upon condition that a portion of the disputed arrears be paid.



W.A.No.206 of 2023

Petitioner has deliberately not chosen to avail that benefit / liberty granted and hence we find no reason to intervene in the order under challenge.

12. In light of the discussion as aforesaid, we do not find any merit in this appeal and the same is dismissed. No costs. Connected miscellaneous petition is closed.

[A.S.M., J] [C.K., J]
04.04.2025

Index:Yes/No
Neutral Citation:Yes
ssm

To

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
119, Uthamar Gandhi Road,
Nungambakkam, Chennai – 600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Mayiladuthurai,
Mayiladuthurai District – 609 001.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Mayiladuthurai,
Mayiladuthurai District – 609 001.
- 4.The Executive Officer,
Arulmigu Manmatheeswararthiru Koil,
Kuttalam Taluk,
Mayiladuthurai District – 609 801.



WEB COPY



W.A.No.206 of 2023

DR. ANITA SUMANTH.,J.
and
C.KUMARAPPAN.,J.

ssm

W.A.No.206 of 2023

04.04.2025