



Writ Petition No.8023 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 17.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Writ Petition No.8023 of 2025

D.Radhammal

W/o.(Late) V.M.Dhanavel

... Petitioner

Vs

1.The Commissioner

O/o.Department of Hindu Religious & Charitable Endowment,
119, Uthamar Gandhi Road,
Thousand Light West,
Nungambakkam, Chennai - 600 034.

2.The Joint Commissioner,

O/o.Department of Hindu Religious & Charitable Endowment,
Arcot Road, Kagithapattarai,
Vellore - 632 012.

3.The Assistant Commissioner,

O/o.Department of Hindu Religious & Charitable Endowment,
Arcot Road, Kagithapattarai,
Vellore - 632 012.

4.The Executive Officer,

Arulmigu Venugopal Swamy &
Varadaraja Perumal Koil, Virupatchipuram,
Office at No.12, Katpadi Road,
Thottapalayam, Vellore - 632 004.

... Respondents



Writ Petition No.8023 of 2025

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus directing the first respondent to take two appeals returned in N.Dis.No.1125864 dated 02.01.2025 on his file and number the same and dispose of the same in accordance with law without insisting to pay the entire demand amount, within the time frame fixed by this Court.

For Petitioner : Mr.S.Sathia Chandran

For Respondents : Mr.K.Karthikeyan
Government Advocate

ORDER

The earlier orders passed by this Court are self-explanatory on the nature and the scope of this writ petition and the earlier orders dated 04.07.2025 and 10.07.2025 are extracted hereunder:

"04.07.2025:

This writ petition has been filed to direct the 1st respondent to take on file the appeal filed by the petitioner and to number the same and dispose it in accordance with law.

2. After considering the submissions made on either side and on going through the records, it is seen that the appeal was not entertained mainly on the ground that the petitioner has not satisfied the requirement under proviso to Sub Section 5 of Section 34A of HR&CE Act. The main ground that has been raised in the present writ petition is that even on an earlier occasion, the petitioner questioned the fair rent fixed by the Committee and filed an appeal before the 1st respondent and the 1st respondent passed an order on 25.11.2022 by issuing certain directions. The grievance of the petitioner is that these directions were not complied with and the order came to be passed by the 2nd



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respondent fixing the fair rent. Hence, the petitioner is seeking for waiver of deposit.

3. The learned Government Advocate appearing on behalf of the respondents shall take instructions as to whether the petitioner had made any pre-deposit when the earlier appeal was filed. If no such pre-deposit was made, the learned Government Advocate shall ascertain as to whether the appeal was entertained pursuant to any orders passed by this Court. Depending upon such instructions, final orders will be passed in this writ petition.

4. Post this case under the caption “for orders” on 10.07.2025.

10.07.2025:

"Pursuant to the earlier order passed on 04.07.2025, the matter was listed for hearing today.

2. Mr.S.Sathia Chandran, learned counsel for the petitioner places reliance upon the additional typed set of documents that was filed before this Court today.

3. On going through the same, it is seen that the petitioner has filed an earlier writ petition in W.P.No.16315 of 2022 to forbear the Joint Commissioner from conducting proceedings against the petitioner till the appeal filed before the Commissioner is disposed of. This writ petition was disposed of by an order dated 29.06.2022 by directing the Commissioner to hear the appeal and to pass orders by the end of August 2022.

4. Pursuant to the above order, the Commissioner of HR and CE Department, through proceedings dated 25.11.2022 has directed the second respondent to adhere to the following procedure. Paragraph 7 of the order is extracted hereunder:

"7. After considering the arguments advanced by the counsels, perusing the records, the following directions are issued:-

1) The respondent temple should re-fix the fair rent with effect from 01.11.2016, 01.11.2019 & 01.11.2022 as per the guidelines issued in G.O.(Ms) No.353 dated 04.06.1999 and G.O.(Ms) No.353 dated 04.06.1999 and G.O.(Ms) No.456 dated



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09.11.2007 and the instruction issued in RC No.4551/2022/M2 dated 10.03.2022 whichever is applicable and communicate the same to the appellant along with the calculation sheet and details of arrears within 15 days from the date of receipt of this order.

2) The Appellant may file his objections, if any, only with regard to the value of the property or usage and area of the property, within 15 days from the date of receipt of a copy of this order, before the respondent temple.

3) If any objection received, the respondent temple is directed to consider the objections, only with regard to the value of the property or usage and extent of area of the property and pass orders within 15 days from the date of receipt of the objections from the Appellant. If no objection is received from the appellant herein, it is deemed that he has no objection whatsoever.

4) The appellant is directed to settle the rental arrears in 12 equal monthly installments.

5) The rent paid in excess based on the earlier fixation, if any, shall be adjusted against the future payments.

6) If the Appellant violates any one of the above conditions, it is open to the respondent temple to initiate action to vacate the appellant and restore the property in accordance with law as it may deem fit and proper.

7) If the appellant fails to settle the arrears, action shall be initiated under Section 79-C of the Act."

5. The materials that have been placed before this Court nowhere indicates that the petitioner has made the pre-deposit. The grievance expressed in the present writ petition is that the direction given by the Commissioner was not adhered by the second respondent and that is the main ground on which the appeal was filed by the petitioner. This appeal is refused to be entertained by the first respondent on the ground that the pre-deposit has not been made and that there is delay in filing the appeal. Insofar as the delay is concerned, the petitioner by way of explanation to the return slip, has stated that



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the copy of the order dated 15.02.2023 was furnished to the petitioner only through a letter dated 10.02.2024 and the appeal was filed within a period of 30 days thereafter.

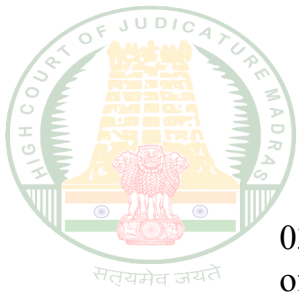
6. Learned Government Advocate appearing on behalf of the respondent wants to take instructions in this regard.

Post this writ petition finally under the same caption on **17.07.2025."**

2. Pursuant to the above order passed on 10.07.2025, the matter was listed for hearing today. Learned Government Advocate filed typed set of papers containing the earlier orders passed by this Court, the order passed by the Commissioner, the proceedings of the Joint Commissioner, fair rent fixation notice issued by the Executive Officer, the reply given by the petitioner and final notice issued to the petitioner on 10.02.2024.

3. What is apparent from the above documents that have been placed before this Court is that when the fair rent was fixed earlier, the petitioner had approached this Court and filed a writ petition in W.P.No.16315 of 2022. The said writ petition was disposed of on 29.06.2022 in the following terms:

"15. That apart, the office of the 1st respondent has issued a notice to the petitioner on 23.06.2022 a copy of which has now been filed by the petitioner wherein the petitioner has been called upon to appear for a hearing before the 1st respondent/Commissioner on



03.08.2022, regarding the maintainability of appeal without pre-deposit of arrears as is mandated under Section 34A of the Act.

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16. Therefore, I do not find any merits in the present writ petition. The respondents shall refrain from evicting the petitioner till the 1st respondent disposes the preliminary issue regarding maintainability of the appeal. The 1st respondent shall endeavour to give an early disposal of the case which is to be listed on 03.08.2022 preferably by the end of August 2022. Needless to state, all issues are left open to be decided including the right of the petitioner to claim waiver from pre-deposit of amount towards the rent on the super-structure."

4. Thereafter, the matter went before the Commissioner of Hindu Religious and Charitable Endowment Department and the Commissioner disposed of the appeal by order dated 25.11.2022 in the following terms:

"7. After considering the arguments advanced by the counsels, perusing the records, the following directions are issued:-

- 1) The Respondent temple should re-fix the fair rent with effect from 01.11.2016, 01.11.2019 & 01.11.2022 as per the guidelines issued in G.O.(MS) No.353 dated 04.06.1999, and G.O.(MS) No.456 dated 09.11.2007, and the instruction issued in Rc.No.4551/2022/M2, dated 10.03.2022, whichever is applicable, and communicate the same to the Appellant along with the calculation sheet and details of arrears within 15 days from the date of receipt of this order.
- 2) The Appellant may file his objections, if any, only with regard to the value of the property or usage and area of the property, within 15 days from the date of receipt of this order, before the respondent temple.
- 3) If any objection received, the respondent temple is directed to consider the objections, only with regard to the value of the property or usage and extent of area of the property, and pass orders within 15 days from the date of receipt of the objections from the Appellant. If no objection is received from the appellant herein, it is deemed that he has no objection whatsoever.



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- 4) The Appellant is directed to settle the rental arrears in 12 equal monthly installments.
- 5) The rent paid in excess based on the earlier fixation, if any, shall be adjusted against the future payments.
- 6) If the Appellant violates any one of the above conditions, it is open to the Respondent temple to initiate action to vacate the appellant and restore the property, in accordance with law as it may deem fit and proper.
- 7) If the Appellant fails to settle the arrears, action shall be initiated under Section 79-C of the Act."

5. Pursuant to the above order, the fair rent fixation notice was issued to the petitioner by the Executive Officer and the petitioner was directed to pay the fair rent. The petitioner gave a reply on 01.08.2023 stating that the petitioner was not heard and straight away the fair rent has been fixed. On receipt of this reply from the petitioner, the fair rent calculation sheet was furnished to the petitioner. Thereafter, notice dated 10.10.2023 was issued to the petitioner stating that the petitioner has to pay the fair rent fixed failing which proceedings will be initiated for evicting the petitioner under the Hindu Religious and Charitable Endowment Act and the arrears of rent will be recovered under the Revenue Recovery Act. On receipt of this notice dated 10.10.2023, the petitioner gave a detailed reply dated 26.12.2023.

6. When the Commissioner disposed of the appeal filed by the



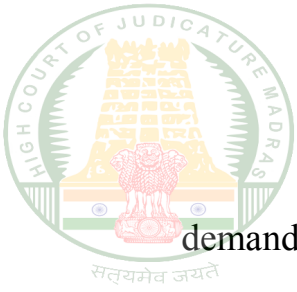
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petitioner, specific directions were issued to communicate the fixation of fair rent to the petitioner along with a calculation sheet and details of arrears and if the petitioner has any objection, the same has to be considered and final orders has to be passed. It was also directed that the rental arrears should be paid in twelve equal monthly instalments.

7. In the case in hand, the petitioner was directly informed about the fair rent fixed and a demand was made from the petitioner for payment of arrears of rent. This procedure adopted is not in line with the earlier directions issued by the Commissioner of Hindu Religious and Charitable Endowment Department.

8. The only dispute that has been raised by the petitioner is that if at all the fair rent is fixed, it can be fixed only for the land and not for the superstructure since it is the petitioner, who had put up superstructure in the land. This ground has not even been considered and straight away demand has been raised against the petitioner.

9. An appeal was filed before the Commissioner against such



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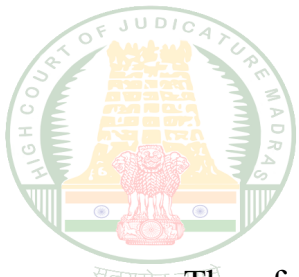
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demand made by the Executive Officer of the temple on the ground that directions issued by the Commissioner were not complied with. Hence, when such a ground is raised by the petitioner, it is not necessary to insist for a pre-deposit. This is more so since the earlier appeal filed by the petitioner was entertained without a pre-deposit.

10. In the light of the above discussion, there shall be a direction to the first respondent to entertain the appeal filed by the petitioner without insisting for pre-deposit. The grievance expressed by the petitioner shall be considered and ultimately, fair rent shall be fixed after giving opportunity to the petitioner. This process shall be completed by the first respondent within a period of three (3) months from the date of receipt of a copy of this order. In the mean time, the petitioner shall continue to pay the present rent without fail.

11. Before drawing curtains, it is made clear that this order cannot be cited as a precedent to seek for waiver of the pre-deposit amount. Such liberty was granted to the petitioner considering the earlier round of litigation before the Commissioner where such pre-deposit was not insisted.

N.ANAND VENKATESH, J.



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Therefore, the order passed in the present case will confine itself to the facts

of the present case.

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This writ petition is disposed of with the above direction. No

costs.

17.07.2025

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order

gm

To

1.The Commissioner

O/o.Department of Hindu Religious & Charitable Endowment,
119, Uthamar Gandhi Road, Thousand Light West,
Nungambakkam, Chennai - 600 034.

2.The Joint Commissioner,

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