



W.P.(MD) No.17288 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.17288 of 2022 &
WMP.No.12613 of 2022

Tamilselvi

... Petitioner

/vs./

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Dept.,
Mayiladuthurai.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Dept.,
Kumbakonam,
Thanjavur District.

3.The Executive Officer,
Arulmigu Adhi Kumbeswarar Temple,
Kumbakonam, Thanjavur District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records of the second respondent's impugned eviction notice in Na.Ka.No.5659/2015/A7, dated 26.07.2022, quash the same as illegal and pass such further order.



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For Petitioner : Mr.Sivabalan

For Respondents : Mr.P.Subburaj Spl.G.P., for RR1 & 2

Mr.V.Chandrasekar for R3

ORDER

When the matter was taken up for hearing under the caption “for admission” this Court taking into account the construction put up by one Ramadoss, father-in-law of the petitioner, had issued directions not to act upon the impugned order by directing the petitioner to co-operate with the temple authorities to take over the possession of the properties of which the petitioner was not in possession. Pursuant to the orders passed by this Court, it was indicated that the properties excluding the property which is in possession of the petitioner for dwelling purposes, possession was taken over by the temple authorities and action is being initiated for leasing out the same through public auction. This Court, by its further order dated 05.04.2024, by taking on record the undertaking affidavit dated 16.08.2022 that the third respondent had assessed the rent at Rs.16,450/- per month and had indicated that if the said amount is acceptable and payable by the petitioner, the proceedings including the Writ Petition can be terminated at that stage. Thereafter, by a further order



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dated 25.04.2024 further time was granted to the petitioner to express her consent to proceed to pay the fair rent fixed by the respondent.

2.Today, when the matter was taken up for hearing, the learned counsel appearing for the petitioner would submit that the fair rent has been fixed based on the market value of the property and not the market rate prevailed in the area. Hence, he would submit that if the fair rent is fixed as per the market fair rent the petitioner is willing to make the said payment.

3.The learned counsel appearing for the third respondent would contend that the rent that has been proposed by the third respondent is based on the market value and would also be beneficial to the petitioner as the market rent surrounding the area is much higher considering the location and extent of the property which is in occupation of the petitioner.

4.Considering the fact that the petitioner was held to be an encroacher and was directed to be evicted by the first respondent and also of the fact that even if the petitioner vacates the property, the same would be leased out to any



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other third party, this Court is of the view that the petitioner can be directed to make the payment of Rs.16,450/- per month as claimed by the third respondent at least from the date of filing of this Writ Petition.

5.In view of the same, I am inclined to dispose of the Writ Petition with a direction to the petitioner to pay a sum of Rs.16,450/- per month to the respondent starting from January 2025. The petitioner shall pay the rent for the month of January 2025 on or before the end of this month and shall pay the rents from the month of February 2025 on or before 10th of every succeeding months.

6.Since, the proposal had been made by the respondent to permit the petitioner to be in occupation of the property on payment of the said amount per month from the month of April 2024, I am also inclined to direct the petitioner to pay the rents so fixed from the month of April 2024 till December 2024. The said arrears of rent shall be paid by the petitioner in eight equated monthly installments along with the rents to be paid from January 2025.



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7. In view of the aforesaid direction, the impugned order shall stand rescinded. It is open to the authorities to take appropriate action against the petitioner, if the petitioner defaults in payment of the monthly rents and also will not preclude the authorities to fix the market fair rent of the property in terms of the provisions relating to the same by treating the beginning of the lease period to be April 2024.

8. With the aforesaid direction, this Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes / No
Gba

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K.KUMARESH BABU, J.

Gba

To

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