



WP(MD) No.25946 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON
11.12.2024

PRONOUNCED ON
28.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.25946 of 2024 &
WMP.(MD).No.22013 of 2024

Vanaja

... Petitioner

VS.

1.The Commissioner,
Hindu Religious and Charitable Endowments,
No.119, Uthamar Gandhi Road,
Nungambakkam, Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Trichy.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments,
Trichy.

4.N.Chithambaranathan,

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records



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relating to the impugned order passed by the third respondent in Se.Mu.Pa.No.4362/2017/Aa2/dated 15.09.2017, and consequently, communication sent by the fourth respondent vide proceedings No.Nil dated 19.09.2024 quash the same as illegal and consequently directed the third respondent to fix fair rent as per the proceedings No.HDO(B)/65325/2001, dated 14.08.2018 issued by Engineer in Chief (Buildings) and Chief Engineer (Buildings), PED, Chennai.

Prayer amended vide Court order, dated 11.12.2024 in WMP(MD).No. 25275/2024 in WP(MD).No.25946 of 2024

For Petitioner : Mr.S.B.Kayvin Prince

For Respondents : Mr.P.Subbaraj Spl.G.P., for RR1 to 3

Dr.Ramesh Mahadev for R4

ORDER

The Writ Petition had been filed challenging the fair rent fixed against the petitioner and the communication dated 19.09.2024 returning the Demand Draft sent by the petitioner on the statement that there was a due of Rs.52,51,000/- in respect of the rents payable by the petitioner, upon which by order dated 14.02.2024, the petitioner was directed to be evicted from the property.



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2. Heard Mr.S.B.Kayvin Prince, learned counsel appearing for the petitioner, Mr.P.Subbaraj, learned Special Government Pleader appearing for the respondents 1 to 3 and Dr.Ramesh Mahadev, learned counsel appearing for the fourth respondent.

3.The learned counsel for the petitioner would submit that the petitioner's mother was a lawful tenant of the land owned by the temple administered by the fourth respondent and there was no default in the payment of the rent by his mother. The petitioner's mother died on 14.01.2010. After which the petitioner took the responsibility of managing and maintaining the property. He would submit that he had also been paying the monthly rents to the temple. While that being so, under the order impugned herein, notice was sent to the petitioner revising the rent for the land occupied by the petitioner. He would submit that the same was made without conducting any enquiry in that aspect and no opportunity was given and a rent at the rate of Rs.59,000/- was fixed for the property that is in occupation of the petitioner. He would rely upon a communication dated 29.05.2023 issued by the Joint Commissioner, the second respondent herein and contend that the rent had been fixed at Rs.7,000/- per month on and



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from 01.07.2022, based upon the fair rent that had been prescribed by the Committee of which, the fourth respondent was also a member. Hence, he would submit that the demand made on the basis of the 2017 revision of rent, would have to be set aside and the petitioner should be permitted to pay the rent as fixed under communication dated 29.05.2023.

4. The learned Special Government Pleader appearing on behalf of the respondents 1 to 3 would submit that the property is very near to Lalgudi bus stand and as on today, the total arrears of Rs.62,54,000/- by the petitioner. The petitioner is not in occupation and he had sub-leased the property to a third party and the petitioner is also not residing in Lalgudi and is residing in Bangalore. In respect of the property belonging to the temple which had been leased to one Hotel Sathiyamurthy measuring an extent 2,162 Sq.ft., now the fair rent had been fixed at Rs.80,150/- per month. The petitioner is in occupation of double the extent and the petitioner would be liable to make good the payment as being given to the said temple. He would further submit that if the petitioner is willing to make the arrears of due as arrived at by the respondent in its communication dated 2017, the claim of the petitioner would be considered.



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5.The learned counsel appearing on behalf of the fourth respondent on the would contend that the petitioner's mother was a lawful tenant and thereafter, the petitioner had not made any attempts to mutate the tenancy in her favour. He would further submit that the reliance placed upon by the petitioner on the proceedings of the Chief Engineer cannot be made applicable to the lands of the temple. Even as per the said communication, the same is applicable only to the Public Works Department and not otherwise. The petitioner had hitherto not challenged the proceedings dated 15.09.2017 in the manner known to law and had only now filed the present Writ Petition that too after an order was passed on 14.02.2024 in M.P.No.1 of 2018 vacating the petitioner from the property. Even as of today, the petitioner had not challenged the said order and she had also suppressed the said material fact of passing the order in this Writ Petition. He would further submit that the reliance placed upon the proceedings dated 29.05.2023 would not support the case of the petitioner, as the same has been made during the pendency of the eviction petition for failure to make good the rents demanded as per the impugned notice, dated 15.09.2017. Even assuming that this revision on 29.05.2023 is applicable, the petitioner would have to make good the payment till May, 2023 and would seek the benefit



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of the said order from June 2023. Hence, he would seek dismissal of the Writ Petition.

6. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

7. Admittedly, the petitioner is a tenant under the fourth respondent temple. The petitioner was issued with a notice on 15.09.2017, calling upon him to pay the fair rent that was fixed by the Committee. The petitioner had failed to challenge the same. On her failure to make good the payment, proceedings were also initiated for evicting her in the year 2018, which came to be concluded by the orders of the Joint Commissioner on 14.02.2024. This order also seems to have been not challenged by the petitioner. However, subsequent to the said order, the petitioner had attempted to send a Demand Draft on 13.09.2024 on the basis of the rent that had been fixed in the year 25.09.2023. Even the said Demand Draft had only represented a sum of Rs.77,000/- for a period of 11 months and not the amount representing the arrears of the amount that the petitioner is to pay from the year 2017. The earlier fair rent proceedings were neither rescinded or superseded by subsequent proceedings. The petitioner is therefore, liable



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to make good the payment of the rent as fixed by the Committee referred to in the order dated 15.09.2017.

8. As regard to the claim made by the petitioner to the benefit of the communication dated 25.09.2023, this Court is surprised as to how such fair rent had been arrived at by the Committee. The Special Government Pleader had also brought to the notice of this Court that for a property measuring to an extent of 2,612 Sq.ft for commercial purpose, the rent had now been fixed at Rs.80,000/- per month, whereas, under the communication dated 25.09.2023 for double the extent of the land, the rent had been fixed only at Rs.7,000/- this shocks the conscience of this Court.

9. With the aforesaid reasons, I do not find any merits in the Writ Petition and accordingly, the Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

28.01.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Gba

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K.KUMARESH BABU.,J.

Gba

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To

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A Pre-delivery order made in
W.P.(MD)No.25946 of 2024 &
WMP.(MD).No.22013 of 2024

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