

**BEFORE THE COMMISSIONER, H.R. & C.E.ADMN.DEPARTMENT,  
CHENNAI-34.**

Tuesday the 21<sup>st</sup> day of March, Two thousand and Seventeen.

Present: Dr.M.Veera Shanmugha Moni,  
Commissioner.

**A.P.31/2016 D2**

**Between**

Dr.Raja saravanan

...Appellant

**And**

The Deputy Commissioner/ Executive Officer,  
Arulmigu Parthasarathyswamy temple,  
Triplicane, Chennai

....Respondent

In the matter of Arulmigu Parthasarathyswamy temple, Triplicane, Chennai.

The Appeal Petition filed under Section 34A(3) of the Tamil Nadu H.R. & C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the notice dated 12.3.2015 of the Deputy Commissioner/Executive officer of the above temple, in informing the fair rent.

**Order in D.Dis.A.P.31/2016 D2 dated: 21.03.2017**

The above Revision petition came up for final hearing before me on 03.01.2017 in the presence of Thiru.R.Loganathan, Counsel for the appellant, and M/s.A.S.Kailasam&Associates Counsel for the respondent. Upon hearing their arguments and having perused the connected records and the matter having stood over for consideration till this day, the following order is passed.

**ORDER**

The above Appeal Petition was filed under Section 34(A)(3) of the Act against the notice dated 12.03.2015 of the Deputy Commissioner/ Executive Officer, of the above temple in informing the fair rent.

2. The case of the appellant is that he is the tenant who used to pay monthly rent of Rs.9680/- for the very old building bearing D.No.102A, T.P.

Koil Street, Triplicane. The present rent is Rs.16930/-. The extent of building was 1509 sq.ft. The lease period was for three years. As per the letter sent by the Deputy Commissioner/ Executive Officer, the lease will be extended for further three years subject to enhancement of rent at 33 1/2 % or market rate. The appellant is regular in making payment of the rent. In the impugned notice, the respondent has demand for payment of Rs.7,73,890/- towards arrears of revised rent. The fair rent was unilaterally fixed by the committee. The entire building is made by the tenant on granting permission. The rent can be collected only for the site alone. The process of arriving at the fair rent is unilateral and without affording any opportunity. The cost of construction, amenities, depreciation value, donor/donee relationship market value of the site was not correctly taken to fix the fair rent. The entire approach is taken as if the tenant is exploiting the building for commercial purpose and earning without any limit. It is the fact that the building is utilized for service the people on very optional cost. Initially as find in the lease deed 10% increase was under consideration and there after 33 ½ % increase of the market value of the rent and now the fair rent was revised retrospectively from 01.12.2013 which has no legal sanction. The statutory procedure for fixing of the rent has not been followed and the principles of natural justice was not adhered while fixing the rent. The nomination of the committee and their materials considered, how the alleged fair rent arrived and the relevant materials relevant to be considered are not made aware of the tenant. There is no transparency in the fixation of fair rent.

3. I heard Thiru.R.Loganathan, counsel for the appellant, M/s.A.S.Kailasam & Associates , counsel for the respondent and perused the relevant records.

4. The counsel for the appellant has argued that the appellant is running a clinic in the said premises with service motive. The building was improved by him with proper permission. He is willing to offer Rs.25,000/- as monthly rent with effect from 01.01.2017.

5. The counsel for the respondent has argued that the fair rent was fixed as per the guideline value. The property is situated in T.P. Koil Street. The rent offered by the appellant was very low compared to the prevailing market value of Rs.35-40/- Sq.ft. The rent was fixed based on the guideline value. If it is fixed based on the market value, the rent will be more.

6. This forum has directed the Joint Commissioner (Legal) at Head Office to inspect the property and the records of the temple and file a detailed report on the following points.

- i) Total extent of the land allotted to the appellant.
- ii) Built up area in the said land
- iii) Additional area created by the appellant.
- iv) Is he enjoying the entire area or has sub-let it
- v) If sublet, is the rent collected by the individual is totally passed on to the temple.
- vi) Prevailing rent in the Area

7. Accordingly the Joint Commissioner (Legal) has inspected the property and filed a report on 20.01.2017. He has reported that the total extent of the building in the ground floor is measuring 1520 sq.ft. and the temporarily roofed 1<sup>st</sup> floor is measuring 1520 sq.ft. The Ground floor of the building is used as two portions. The front portion madras terrace admeasuring 643.25 sq.ft is used as clinic cum Dispensary with Toilet and bathroom. The rear portion admeasuring 876 sq.ft. is used as Administrative office room for the Tuition centre called Sri parthasarathy learning centre. An extent of 176.38 sq.ft runs as stair case. The first floor area with Galvanized Aluminium roof shed admeasuring 1343.56 sq.ft is used as class rooms for the tuition centre. The rent for the sub-leased area is collected by the tenant himself. It is ascertained orally from the neighbours of the building that the rental value in that area is Rs.100 sq.ft.

8. It was contended by the appellant that the entire premises has been utilized by him. But on Inspection it was found that major portion of the building is sub-let to run a Tuition Centre. The fact of sub-let of property was

not disclosed either by the appellant or by the temple during the course of enquiry. The quantum of rent collected from the said tenant is also not known.

9. The appellant has got the lease of the building subject to revision of rent based on the market value. Subsequently, on his request, he was permitted to make some improvement in the building as donor work. As the building belongs to the temple the fair rent has been revised based on the guideline value prevailed on 01.12.2013 taking into account the additional area created by the appellant.

10. The appellant has sub-let the property against the terms and conditions of lease and is earning huge income. The property has been exploited commercially. If the property is leased out in public Auction, it will fetch more income to the temple. But the appellant is willing to pay only Rs.25000/- per month with effect from 01.01.2017. It is far low compared to the prevailing market rental value in that locality. The fair rent committee has fixed a revised fair rent of Rs.65,850/- per month based on the prevailing guideline value. If the fair rent is fixed on the basis of market value it will be more than the rent now fixed by the committee.

11. Though the land and the building belong to the temple, the additional construction was made by the appellant with proper permission. Hence his request for reduction for fair rent deserves consideration. But the land value alone for 1520 sq. ft., works out to Rs.91.201 lakhs at a guide line value of Rs.6000/- sq.ft. Since it is a commercial property, the lease rent per month for the land alone works out to Rs.54,720 (Rs.91,20,000×0.6%). At present, he is paying rent of Rs.16,930/- per month and the fair rent committee has fixed it at Rs.65,850/- per month ,which is almost 4 times the present rent and hence this appeal. Taking into account the fact that the present occupant has spend for additional construction and for maintenance, his request deserves consideration. However, it cannot be reduced below a monthly rent of Rs.54,720/per month for the reasons mentioned alone with effect from 01.12.2013. Accordingly the appellant is directed to pay the revised

rent along with the accrued arrears within 30 days from the date of receipt of this order. The appeal petition is hereby disposed of with the above directions.

/typed to dictation/

Sd./- M.Veera Shanmugha Moni  
Commissioner

/t.c.f.b.o./

Superintendent

**To**

1. The Appellant through Thiru.R.Loganathan, Advocate, No.7, Law Chambers, Highcourt, Chennai.
2. The Respondent through M/s. A.S.Kailasam Associates, Advocate, No.86, Law Chambers, High Court Buildings, Chennai 600 104.

**Copy to**

3. The Joint Commissioner, HR & CE Admn.Dept., Chennai.
4. The Assistant Commissioner, HR & CE Admn.Dept., Chennai.
5. Extra