

BEFORE THE COMMISSIONER, H.R. & C.E.ADMN.DEPARTMENT, CHENNAI-34.
Tuesday the 25th day of September, Two thousand and Eighteen.

Present: Thiru.T.K.Ramachandran, I.A.S.,
Principal Secretary /Commissioner

A.P.25/2018 D2

Between

S.R.Chandran

.... Appellant.

And

Takkar,
Arulmigu Meenatchi sundara vinayakar
Nandhavana Kattalai,
C/o Arulmigu Chokkanatha Swamy Thiru Kovil,
82, Sivankovil Street, Virudhunagar.

...Respondent

In the matter of Arulmigu Meenatchi sundara vinayakar Nandhavana Kattalai ,
Virudhunagar.

The Appeal petition filed under Section 34(A)(3) of the Tamil Nadu H.R. & C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the notice dated 06.04.2017 and 20.04.2017 of the Takkar of the above temple in informing the fair rent.

Order in D.Dis.A.P.25/2018 (D2) dated:25.09.2018

The above Appeal petition came up for final hearing before me on 24.09.2018 in the presence of Thiru.K.Ravi Counsel for the appellant and Thiru.M.Ravi Bharathi 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 challenging the fair rent fixed Under Section 34(A) of the Act.

2. The appellant has stated that the vacant land belonging to the above kattalai has been leased out to him in the year 1991 for a monthly rent of Rs.140/- per month and the present rent was Rs.986/- per month. He has constructed buildings in the said land and running the business of Spray painting I works for the past 26 years.

The respondent has issued notice dated 06.04.2017 by fixing the rent at Rs.10,200/- with effect from 01.07.2016 u/s 34 (A) of the Act. But working sheet for the fixation of Fair rent and proceedings of the Fair Rent Committee were not enclosed along with the said notice. There is no provision in the Act to fix the rent retrospectively. The notice is silent about how the guideline value or market value was arrived. The appellant was not given opportunity before re-fixing the lease rent.

3. In the counter affidavit, the respondent has stated that the appellant is tenant of the suit property from the year 1997. The Fair rent has been fixed by the Fair Rent Committee at Rs.10,200/- per month taking into account the rent paid by the similar type property situated in the said location and the same was communicated to the petitioner vide impugned notice. The appellant has challenged the Fair rent in W.P.(MD) No.5871/2018 and the Hon'ble High Court granted interim stay with condition to pay the arrears in equal installments. The Fair Rent Committee re-fixed the rent following the procedures and there was no violation of principle of nature justice. The appellant has not produced any document to prove that the prevailing market value fixed by the respondent is not correct.

4. I heard Thiru.K.Ravi, counsel for the appellant, Thiru.M.Ravi Bharathi, counsel for the respondent and perused the relevant records.

5. This appeal petition was filed u/s 34(A)(3) of the Act challenging the re-fixation of Fair rent with effect from 01.07.2016 u/s 34 A of the Act. As per the proviso under Section 34 A (5) of the Act, no appeal shall be entertained u/s 34 (A)(3) of the Act, unless it is accompanied by satisfactory proof of deposit of the lease rent fixed or re-fixed in the account of the religious institution concerned. Since the appellant has filed this appeal petition without pre-deposit of arrears as provided u/s 34(A) (5) of the

Act, the appeal petition was posted for hearing the counsels regarding the maintainability. After hearing both sides, the following order was passed by this forum on 28.02.2018.

“1. The respondent temple is directed to calculate the unpaid arrears at the existing rate, till the date of intimation of revised rent and arrears at the revised rate from the date of intimation of revised rent till 31.03.2018. The same shall be communicated to the petitioner before 06.03.2018.

2. On receipt of such communication from the temple, the petitioners are directed to settle the arrears in full as per the communication issued by the temple before 27.03.2018 and file proof of deposit of arrears as communicated by the temple before this forum on 03.04.2018.

3. The petitioner shall file an undertaking affidavit to continue to pay the revised rent till the disposal of the appeal petition.

4. The above petition is posted on 03.04.2018 to file an undertaking affidavit along with proof for deposit of arrears to decide the admissibility of the main appeal petition.”

6. The said order was challenged by the petitioner in W.P.(MD) No.5871/2018. The Hon'ble High Court has granted interim stay by order dated 20.03.2018 in WMP.(MD) No.5750/2018 with the following conditions:-

“There shall be an order of interim stay on condition that the petitioner deposits the entire arrears amount as on today on four equal installments before the second respondent. The first installment should be paid on or before 10.04.2018. The second, third and fourth installments have to be paid on the first working day of every succeeding month. The petitioner is also directed to pay the revised rent without any default, till the disposal of the writ petition. If the

petitioner fails to comply with any one of the conditions, the interim stay granted shall stand vacated automatically, without any further reference to the Court”.

7. Accordingly the petitioner had paid Rs.49,810/- on 31.03.2018 as 1st installment. Hence, the appeal petition was numbered. But thereafter neither **has** the appellant appeared for enquiry nor paid the other installments as directed by the Hon'ble High Court. The outstanding arrears as on 01.09.2018 **are** Rs.69,832/-. The appellant has failed to pay the 3rd and 4th installment of arrears as directed by the Hon'ble High Court. The Hon'ble High Court has observed that if the appellant fails to pay the arrears, the stay granted shall **stand** vacated automatically. As the appellant has disobeyed the direction of the Hon'ble High Court by defaulting in payment of the 3rd and 4th installments and the monthly rents, the appeal petition is liable to be dismissed. Accordingly, the Appeal petition is hereby dismissed and the respondent is directed to proceed in accordance with the law.

/typed to dictation/

Sd./- T.K.Ramachandran
Principal Secretary /Commissioner

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

Superintendent

To

1. The Petitioner through Thiru.K.Ravi, Advocate, No.66 Katchery Road, Virudhunagar.
2. The Respondent through Thiru.K.Ravibharathi, Advocate, No.101, Additional Law Chambers, High Court Buildings, Chennai-104.

Copy to:

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