

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

Thursday the 23<sup>rd</sup> day of August Two thousand and eighteen.

Present: Tmt.R.Jaya, I.A.S.,  
Commissioner.

**A.P.48/2018**

**Between**

P.S.Thirunavukkarasu

P.Shanmugam

.... Appellants.

**And**

The Executive officer

Arulmighu Thanthondriswarar alias

Upamanneswarar Temple, Nellikara Street,  
Kancheepuram.

...Respondent

In the matter of Arulmighu Thanthondriswarar alias Upamanneswarar Temple, Nellikara Street, Kancheepuram

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 06.12.2017 of the Executive officer of the above temple in informing the fair rent.

**Order in D.Dis.A.P.48/2018(D2) dated :23.08.2018**

The above petition came up for hearing on 02.07.2018 before Thiru.M/s.Manoharan Sundaram, the counsel for the appellant and Thiru.P.V.Arul Phazam Nee, counsel for the respondent-temple. After hearing the counsels the following order is passed.

**ORDER**

The above appeal petition was filed u/s 34(A)(3) of the Act against the notice dated 06.12.2017 of the Executive Officer of the above temple in informing the fair rent.

2. The Appellant has stated that land measuring an extent of 4000sq.ft. comprised in Kancheepuram Town Survey No.281 belongs to Arulmighu Vandarkuzhali Samedha Thanthondriswarar Temple, Kancheepuram Town and

the same was enjoyed by one Mr.Pachaiyaappan by paying necessary rents to the Respondent temple for more than 30 years. The said Pachiyappan regularly paid the rent to the said temple which was fixed by the temple administration from time to time. Apart from the said 4000sq.ft. temple land, the said Pachiyappan also possessed, enjoyed and holding the land measuring an extent of 34000sq.ft. comprised in T.S.No.281 of Kancheepuram Town, abutting the temple land, which is classified as poromboke in the revenue records. Neither the revenue department nor the temple administration claimed any right over in the land and therefore the said Pachiyappan has enjoyed the same as an absolute owner of the same without any let or hindrance from any quarter. On 05.12.2001, the Appellants herein purchased the said superstructure and machineries for proper sale consideration from the said Pachaiyappan vide registered Doc No.2218/2001 of Joint Sub-Registrar-1, Kancheepuram. The appellants who are being philanthropic persons and taking note of the poor and downtrodden people residing in and around the Kancheepuram area, who are not able to afford a good education for their wards or not in position to get a quality education for their wards at cheaper costs and fees, decided to use the said land for imparting education for poor people by starting a school and therefore the Appellants herein started a matriculation school in the land in question, in the name and style of Royal Matriculation School wherein the Appellants herein are now imparting education from 1<sup>st</sup> standard to 10<sup>th</sup> standard. The purchase of super structure of 4000sq.ft. by the Appellants from erstwhile tenant Pachiyappan Mudaliyar

has been recognized by the temple administration and thereby they are levying and collecting the rent from 2001 onwards and thus the Appellants herein are regularly paying the monthly rent without any default. As on date, there is no arrears of rent payable to the Respondent temple. On 06.12.2017, the Respondent herein issued a notice wherein it was informed that the land measuring an extent of 21,474 and 16,781sq.ft. situate at T.S.No.281 is belonging to Respondent temple and Fair Rent Fixation Committee has revised the monthly rent payable by the tenants on the basis of prevailing market rental value and other factors like, value of property, place, surroundings, usage, etc., The said Committee has not issued any notice to the tenants and called for objection. The said Committee has determined the monthly rent of Rs.57,295/- as fair rent for the appellant's holding of land. The Appellants have to pay Rs.43,200/- as arrears of the rent till 30.06.2016 and Rs.9,16,720/- as revised rent for the periods between 01.07.2010 and 31.10.2017 as on or before 15 days from the date of receipt of the notice. The land measuring an extent of 34000sq.ft. which is now in possession of the Appellants herein is absolutely belonging to revenue department as the same has been classified as poromboke in the revenue records. But the Fair Rent Committee and temple administration came to the conclusion that the land enjoyed and possessed by the Appellants herein is belonging to the temple. The impugned notice dated 06.12.2017 is liable to be set aside since neither the fixation committee nor the respondent herein has given any details as to whether the land in question is belonging to temple.

3. I heard Thiru. Monoharan Sundaram, Counsel for the appellants, Thiru. P.V. Arul Phazam Nee, Counsel for the respondent and perused the relevant records.

4. The appellants have challenged the re-fixation of fair rent with effect from 01.07.2016. Since the appellants have filed this appeal without depositing the re-fixed rent along with the arrears accrued therein, the appeal petition was posted for hearing on maintainability. After hearing the counsel, the following order was passed:-

- i. 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 petitioners before 06.03.2018.
- ii. 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.
- iii. The petitioners shall file an undertaking affidavit to continue to pay the revised rent till the disposal of the appeal petition.
- iv. 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 petitions.

5. Accordingly, the appellants have remitted the arrears of Rs.1,73,180/- on 19.04.2018 and filed a memo to that effect. The said fact was not disputed by the temple. Hence, the main appeal is taken on file. The appellants are running a school in the suit property.

6. The fair rent has been fixed for 38193.91sq.ft. of vacant land. But the appellants are claiming that only 4000sq.ft. belongs to the temple, remaining 34000sq.ft is classified as "Poromboke" in the revenue records. The said 34000sq.ft of land was enjoyed by their vendor for several years without any hindrance. They had purchased the said land for valid consideration along with the superstructure built in the 4000sq.ft belongs to the temple. But the temple has not filed any counter rebutting the above contention.

7. Since, the appellants are disputing the title over the 34000sq.ft of land and the fair rent fixed without hearing their objection, the impugned order need reconsideration. Accordingly the following order is passed:-

- i. The appellants are directed to file their objections, if any, with supporting documents to the temple within 15 days from the date of receipt of this order.
- ii. The respondent temple is directed to place the said objections before the fair rent fixation committee for consideration within 30 days from the date of receipt of the objections.
- iii. The decision of the fair rent committee shall be communicated to the appellants within 15 days thereafter.

- iv. Till then, the appellants should continue to pay the refixed rent. If the fair rent is revised, any excess rent paid by the appellants, shall be adjusted in the future rent.
- v. If the appellants failed to file their objections within the stipulated time, the respondent temple shall take action against them in accordance with law.

The appeal petition is hereby disposed of with the above direction.

/typed to dictation/

Sd./- R.Jaya  
Commissioner

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

Superintendent

**To**

1. The Appellant through M/s.Manoharan Sundaram, Advocate, No.35, Law Chambers, High Court Buildings, Chennai-104.
2. The Respondent through Thiru.Arul Phazam Nee, Advocate, No.18, Law Chambers, High Court Buildings, Chennai-104.

**Copy to:**

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