

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

Tuesday the 4th day of December, Two thousand and twelve.

Present : Thiru P. Dhanapal, M.A.,B.L.,
Commissioner.

A.P.50 and 51/2008 D2

Between

K.R. Narayanan

S/o Raman

And

The Executive Officer,

Arulmighu Varasiddhi Vinayagar Temple,

Periamet, Chennai 600 003.

. Appellant in Both Appeals.

.. Respondent.

In the matter of Arulmighu Varasiddhi Vinayagar Temple, Periamet,
Chennai 600 003

Appeal Petitions filed under Section 34(A) of the Tamil Nadu
HR&CE Act, 1959 (Tamil Nadu Act 22 of 1959) against the notice dated
5.2.2003 of the Executive Officer intimating fixation of fair rent to the
properties belonging to the above mentioned temple.

Order in R.Dis. A.P.No.50 & 51/2008 (D2) dated: 4.12.2012.

The above Appeal Petitions having come on for final
hearing before me on 6.11.2012 in the presence of Thiru
V.K.Rajagopalan, Counsel for the Appellant and Thiru G. Sugumaran,
Counsel for the Respondent, upon hearing their arguments and after
perusing the records and the matter having stood over for
consideration till this day, the following common order is made:-

COMMON ORDER

The above appeal petitions have been filed against the notice
dated 5.2.2003 of the Executive Officer intimating fair rent to the
shops occupied by the appellant fixed by the fair rent committee and
the arrears of fair rent due from the appellant.

2. The appellant contended that before fixing the rent no enquiry
was conducted by the Executive Officer and no opportunity was given.

The building is very old. The appellant filed W.P. 28577/2004 against the enhancement of rent and obtained interim order, the Writ Petition was later dismissed on 2.7.2008 with directions to file appeal before the Commissioner. The Commissioner has directed the appellant to pay 50% of the rent in 4 weeks. The appellant herein filed another W.P.2235/2010 challenging the interim order passed by the Commissioner. The Hon'ble High Court disposed the Writ Petition on 10.2.2012 with directions to the Commissioner to take up the appeals on 6.3.2012 and to dispose of the same.

3. I have heard Thiru V.K.Rajagopalan, Counsel for the appellant and Thiru G.Sugumaran, Counsel for the Respondent and perused the connected Records. By the impugned communication, the respondent/Executive Officer has only informed the appellant herein the fair rent fixed to the property by the Fair Rent Committee and approved by the Joint Commissioner, H.R.&.C.E. Admn. Dept., Chennai for the shops occupied by the appellant in Door No.1123 at Poonamallee High Road, Chennai, fixing the fair rent at Rs. 1470/- from Rs.405/- with advance amount of Rs.8,620/- and Rs.15.975/- towards arrears from 1.11.2001 and for another property from Rs.400/- to Rs. 825/- with advance amount of Rs.4,550/- and Rs.6,375/- towards arrears from 1.11.2001 and periodically enhanced the fair rent once in every three year as per guidelines issued in the Government Orders. The Hon'ble High Court has disposed of the Writ Petition No.2235/2010 filed by the appellant with the following observation. *"Considering the fact that the appellate authority has to decide the question as to what could be the fair rent and whether it may go for further enhancement once in three years in fairness to the claim of the parties herein and The petitioner is directed to continue to make the payment as before in respect of the disputed period and the same is subject to the result of the appeal pending before the second respondent."* I have perused the fair rent fixation

statement fixed by the Fair Rent Committee and approved by the Joint Commissioner, H.R.&.C.E. Admn Department Chennai. The Fair rent fixed is as per guide lines issued in the Government Order. Once in every three year fair rent has to be enhanced at 15% as per the orders issued in the Government Order. Accordingly, the Respondent has enhanced the fair rent once in every three years. There is no fault in this. If there is any dispute about the area allotted and occupied, error in respect of calculation of extent of land occupied, this forum has power to rectify the defects. But there seems no defect or violation in the fixation of fair rent. Further, the impugned communication is only a notice of demand and not an order. Hence, I find no reason to interfere with the impugned communication issued by the Executive Officer. The appeal petition deserves no consideration. Accordingly both the appeal petitions are dismissed. The Appellant is directed to pay the entire arrears within a period of 30 days from the date of receipt of this order. If, the appellants failed to comply with this direction within the stipulated time, the Executive Officer is directed to initiate appropriate proceedings under Section 78 of the Act.

/typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/true copy/by order/

Superintendent.

To

1. The Appellant through V.K.Rajagopalan, Advocate,
No.54, Armenian Street, IInd Floor, Chennai. 600 001.
2. The Respondent through Thiru G. Sugumaran, Advocate,
352, Law Chambers, High Court Buildings, Chennai. 104.

Copy to:

3. The Joint Commissioner, HR&CE Admn. Department, Chennai.34
4. The Inspector, HR & CE Admn.Department, Circle VI, Chennai.34
5. The Assistant Commissioner, HR&CE Admn.Department, Chennai.34
6. Extra.