

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

Friday the 4<sup>th</sup> day of January, Two thousand and Thirteen.

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

**A.P. 39/2010/D2**

**Between.**

Dineshchand Surana.

...Appellant

**And**

1. The Executive Officer,  
Arulmighu Thiyagarajaswami Temple,  
Thiruvottiyur, Chennai. 19.
2. The Fit Person,  
Arulmighu Thiyagarajaswami Temple,  
Thiruvottiyur, Chennai. 19. ... Respondents

In the matter of Arulmigu Thiyagarajaswami Temple,  
Thiruvottiyur, Chennai 600 019.

Appeal Petition under Section 34(A)(3) of the Tamil Nadu HR&CE Act,1959 (Tamil Nadu Act 22 of 1959) against the notice dated 18.02.2009 of the Assistant Commissioner/Executive Officer of the temple issued to the appellant requesting to pay the arrears of fair rent fixed.

**Order in D.Dis.A.P. 39/2010 (D2) dated: 4.1.2013.**

The above appeal petition has been filed under Section 34 (A)(3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 22/1959 against the notice dated 18.2.2009 of the Assistant Commissioner/ Executive Officer of the temple issued to the appellant herein requesting to pay the arrears of fair rent fixed to the property occupied and enjoyed by him till 31.01.2009.

2. The case of the appellant is that the building bearing New Door No.63 (old Door No.56A) Pillaiyar Koil Street, Tondiarpet, Chennai-81, is absolutely belongs to the temple and he was inducted

as a tenant in the year 1989 on a monthly rent of Rs.500/- by paying a sum of Rs.5000/- as advance and by entering into a lease agreement dated 21.07.1989. Thereafter, fair rent was fixed to the property from time to time and notice demanding payment of arrears of fair rent was issued by the respondents. The appellant had made lot of improvements in the building and invested huge amounts. The said property was used as Godown for storing trading goods. Now the property is not used as commercial with effect from 1.11.2001 onwards. Therefore the property is being used as domestic/residential with effect from 1.11.2001 onwards. While so, the respondents has sent notice fixing the fair rent to the premises at Rs.16,680/- and directed the appellant to pay a sum of Rs.7,53,280/- on or before 30.04.2005. The same was challenged before the Commissioner and the revision preferred by the appellant in the year 2006 was closed in D.Dis.No.1954/2006 D.2 dated 5.5.2008 with directions to the respondent to fix rent as per the revised guidelines and after following the prescribed procedure. But the respondent without following the procedures has arbitrarily fixed the fair rent and demanded to pay the arrears from 1.11.2001 onwards. Therefore, the demand made by the respondent by letter dated 18.02.2009 has got to be set aside, directing the respondent to fix the fair rent properly on the basis that the property is being used as domestic/residential with effect from 1.11.2001 onwards in accordance with the guidelines issued by the Government.

3. The Respondents filed counter affidavit contending inter alia that the premises was used by the appellant for commercial purposes of stocking and selling of iron products, but now the premises is in vacant position, but under the possession of the appellant and wantonly refuse to hand over the vacant possession of the premises to the temple. Fair rent has been fixed as per the guidelines issued in G.O.Ms.No.353 and 456 and enhancement of rent

is not questionable. The appeal is highly motivated and vindictive and is liable to be dismissed as not maintainable in law and prayed to dismiss the appeal.

4. I heard Thiru N.Sathyamoorthy, Counsel for the appellant and S. Krishnaprasad, Counsel for the Respondents. When the appeal petition came up for hearing on 06.11.2012, the appellant, accepting the fair rent fixed on commercial basis and agreed to pay 50% of arrears within two weeks and another 50% within another two weeks. Accordingly, the appellant has paid a sum of Rs. 26,43,560/- on 24.11.2012 to the respondent temple and produced the rental receipt on 28.12.2012. Since the appellant concedes and accepts the fair rent fixed on commercial basis to the property and paid the entire rental arrears, nothing survives for adjudication in this appeal petition and it became as infructuous. Therefore, the appeal petition is dismissed as infructuous.

/typed to dictation/

Sd. P. Dhanapal,  
Commissioner

/true copy/by order/

Superintendent.

**To**

1. The Appellant through Thiru N. Sathiyamoorthi, Advocate, 62, New Law Chambers, High Court Buildings, Chennai. 104.
2. The Respondents through Thiru S. Krishna Prasad, Advocate, 13/6, Shanmugapuram 4<sup>th</sup> Street, Wimco Nagar, Thiruvottiyur, Chennai.600 019.
3. The Assistant Commissioner/Executive Officer, Arulmighu Thiyagarajaswami Temple, Thiruvottiyur, Chennai. 19.
4. The Fit Person, Arulmighu Thiyagarajaswami Temple, Thiruvottiyur, Chennai. 19

Copy to:

5. The Joint Commissioner, HR & CE Admn. Dept.,Chennai.34.
6. The Assistant Commissioner, HR & CE Admn. Dept.,Chennai.34.
7. Extras.