

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

Thursday the 28<sup>th</sup> day of February, Two Thousand and thirteen.

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

A.P. 15/2012 D2

Between  
Ayisha Ammal  
rep.by her Power Agent K.N. Mohammed Ismail. ... Appellant.

And  
The Joint Commissioner/Executive Officer,  
Arulmighu Ramanathaswamy Temple, .. Respondent  
Rameswaram.

In the matter of Arulmighu Ramanathaswamy Temple,  
Rameswaram.

Appeal petition filed under Section 34(A) of the Tamil Nadu H.R. & C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the notice dated: 27.4.2011 in Rc.No. 1707/09 B5 of the Joint Commissioner/Executive Officer of the above Temple regarding fair rent.

Order in D.Dis. A.P. 15/2012 (D2) Dated : 28.2.2013.

The above appeal petition having come on for final hearing before me on 8.2.2013 in the presence of Thiru S. Sathiamurthi, Counsel for the Respondent. Both the Appellant and his Counsel remained absent on all the occasion. Upon hearing the argument and after perusing the records, the following order is made.

ORDER

The above appeal petition filed against the notice of the Joint Commissioner/Executive Officer, Arulmighu Ramanathaswamy Temple, Rameswaram, informing the fair rent fixed. The Joint Commissioner/Executive Officer fixed the fair rent to the land in possession of the appellant. The property is situated in S.No. 126, Muthupettai in Thiruvarur District. The fair rent has been fixed as per G.O. The appellant was directed to pay the fair rent along with the arrears of Rs. 2,13,857/-.

2. The appellant contended that before fixing the fair rent no notice was given and the Joint Commissioner/Executive Officer fixed the fair rent arbitrarily and the Joint Commissioner/Executive Officer failed to consider the pendency of O.S. 90/2009 before the District Munsif Court, Thiruthuraipoondi.

3. In the Written Submissions, the respondent temple contended that Smt. Ayisha Ammal became the Pagudhidhar in respect of 10 cents of land belonging to the temple at S.No126, Muthupettai Town, Thiruthuraipoondi Taluk, Thiruvarur District at Rs. 100/-. The said Ayisha Ammal inducted Thiru K.N. Mohammed Ismail as Pagudhidhar illegally without the permission of the respondent temple and contrary to the various provisions of the H.R. & C.E. Act. Hence the temple has filed a suit for recovery of possession in O.S. 90/2009 before the District Munsif Court, Thiruthuraipoondi against the said Ayisha Ammal and Mohammed Ismail. The said suit is pending. The Respondent further contended that the appellant is bound to pay the fair rent for the period of her occupation till she vacates the property and handover the possession to the temple. Accordingly the Joint Commissioner/Executive Officer issued a Pro. Rc. 1707/2009 A5 dated 27.4.2011 fixing the fair rent for the property in occupation of the appellant. It is absolutely false to claim that the Pagudhi is Rs. 10 per year for 10 cents in S.No.

126. The prevailing Pagudhi for 1 fasli is Rs. 100/-. Though it is claimed by the appellant that she has conveyed the Pagudhi pathiya rights in favour of K.M. Mohammed Ismail on 2.12.1987, she has no right to convey the same in favour of anybody. The said K.N. Mohammed Ismail is not the Pagudhidhar of the respondent temple. It is false to claim that the said Mohammed Ismail has been paying the pagudhi till fasli 1450. The said payment has been made only in the name of Smt. Ayisha Ammal. The contention of the appellant that when the civil suit is pending the respondent temple cannot claim the fair rent is absolutely baseless. The main intention of the appellant is to delay the payment of fair rent by filing appeal and other proceedings and absolutely there are no merits in the above appeal.

4. I heard Thiru S. Sathiamurthi, Counsel for the respondents. Both the petitioner and his counsel remained absent on all occasions. I perused the relevant records and decided to pass order on merits. The above appeal petition has been filed by K.N. Mohammed Ismail, Power agent of Ayisha Ammal. But the power of attorney has been given only to conduct the O.S. 90/2009 before the District Munsif Court, Thiruthuraipoondi, not to file this appeal petition. Smt. Ayisha Ammal is Pagudhidhar under the Temple in the above property. But she illegally conveyed the Pagudhi right to one K.N. Mohammed Ismail without the permission of the respondent Temple. But he put up a permanent structure in the said land. Hence O.S. 90/2009 has been filed to evict the appellant from the property. Further the contention of the appellant that when the Civil Suit is pending, the respondent temple cannot claim the fair rent is not acceptable, because the appellant is bound to pay the fair rent for the period of her occupation till she delivered possession of the property. The fair rent was fixed in accordance with provisions of the Act and guidelines issued in various Government Orders.

Hence, I find no merits in the appeal petition; accordingly it is hereby dismissed as devoid of merits. The appellant is directed to pay the entire arrears of rent to the respondent temple within 30 days from the date of receipt of this order. If the appellant failed to comply with this order, the respondent temple is directed to initiate proceedings against the appellant in accordance with the provisions of the Act for non-payment of fair rent and violation of lease conditions.

/Typed to dictation/

Sd. P. Dhanapal,  
Commissioner.

/ true copy/ by order/

Superintendent.

To

1. The Appellant through Thiru T. Anandan, Advocate, Javulikadai Street, Thiruthuraipoondi, 614 713.
2. The Joint Commissioner/Executive Officer, Arulmighu Ramanatheeswarar Temple, Rameswaram. (RC. 608/2011 B4)

Copy to:

3. The Joint Commissioner, HR&CE Admn.Dept., Sivagangai.
4. The Inspector, HR&CE Admn.Department, Rameswaram..
5. The Assistant Commissioner, HR&CE Admn.Department, Paramakudi.
6. Extra.