



**ORDER.**

The above appeal petition filed under Section 34 (A) of the Hindu Religious and Charitable Endowments Act against the notice dated 15.9.2011 of the above temple informing the appellants to pay the rent arrears due from the appellants.

2. The appellants contended that they took lease of the temple property situated at No.66, Elephant Gate Street, Sowcarpet, Chennai 79 to an extent of 52 sq.ft. at Rs. 200/-p.m. and 823 sq.ft. at Rs. 400/- p.m. respectively from 1.1.1988. The said premises was leased out for running a textile business and subsequently the appellants wound-up the business and now running business of buying and selling of two wheelers. They are paying the rental without any arrears from 1.1.1988 to the respondent. They are also paying E.B. Bills regularly and the card name has also been transferred in the appellants' name. The respondent sent notice to increase the rent to Rs. 430/- p.m. and Rs. 6760/- p.m. respectively from 10.4.2002. The appellants on receiving the said letter, requested the temple to reduce the amount of rent and continued to pay the old rent which was also acknowledged by the respondent without any protest. The appellants further contended that the building is in a dilapidated condition and requested the respondent to allow them to carry out repairs. The temple authorities permitted to carry out the repairs with condition to

hand over the building to the temple to fix new rent as per norms. Since there is no assurance was given by the temple to fix the old rent, the appellants never carried out the repairs. But on 15.9.2011, the respondent demanding arrears of Rent of Rs. 50,972/- and Rs.9,31,032/- without any calculation or reasoning to the effect. The respondent also locked the premises and sealed without any proper order from the relevant authority. No order was served to the appellants.

3. In the counter affidavit filed by the respondent, he has stated that it is true that the temple property above was leased out to the appellants originally for doing textile business but subsequently the nature of business has been changed by the appellants without the consent of the Respondent. The area under occupation is 52 sq.ft. and 823 sq.ft. respectively and the rent was fixed at Rs. 656/- p.m. and Rs.6750/- p.m. respectively by the rent fixation committee in accordance with Government order and the same was informed through a communication vide K.Dis.No. 638/2002 C1 by the Joint Commissioner Vellore on 1.4.2002. The respondent also stated that before fixing the fair rent, the fair rent committee has taken into consideration all the aspects required under the law and there is no necessity to give a notice as has been laid down by the Division Bench of the Madras High Court. The Respondents stated that in any event the appellants were heard before fixing the fair rent on 18.3.2002 and communicated on 1.4.2002. Since the order has been communicated on 1.4.2002 and received by the appellants, the present appeal

against a reminder dated 15.9.2011 is not maintainable and has to be rejected in limini. The appellants have not filed an appeal against the original order and hence the present appeal against a letter dated 15.9.2011 is not maintainable. The respondent further stated that the under Section 34-A of the Act the authorities under the Act will take into account the market value prevailing and fix the fair rent, and under Sub-section 2 of Section 34-A, the Executive Officer or the Trustee of a Religious Institution shall pass an order fixing the lease rent and intimate the same to the lessee fixing a time frame. The proposed rent fixation was communicated to the appellants, the appellants has slept over the same and when a reminder has been sent stating that the appellants were treated as encroachers under Section 78 of the Act , they came with this appeal.

4. In the reply affidavit filed by the appellants they submitted that they are willing to take the premises on Donor Basis provided if the respondent allow them to construct or willing to enter into a fresh lease agreement on the basis of donor allotment, they are willing to pay the rent. The appellants has also submitted that if the Tribunal wants can appoint an advocate commissioner or depute any of the office staff who can ascertain the conditions of the premises and it is baseless to claim exorbitant amount for the building where no activities are being carried out by them.

5. I have heard M/s. Bhavatharini, Counsel for the appellants and M/s A.S. Kailasam, Counsel for the Respondent and perused the records. The fair rent was fixed by the Fair Rent

Committee on 18.3.2002 in accordance with Government order and the same was communicated to the appellants on 1.4.2002. Against which the appellants does not file any appeal against the said order, but challenged the subsequent notice issued by the Executive Officer. The appellant after having received the fair rent fixation order in the year 2002, has kept silent over for nearly 10 years and come before this form challenging the reminder letter dated 15.9.2011 of the Executive Officer. However, again copy of the rent fixation statement has been furnished to the appellants in the Court. Fair Rent has been fixed as per Government Orders. The appellants neither dispute the extent of arrear nor rent calculation.

5. Hence, I find no merits in the appeal petitions accordingly it is hereby dismissed as devoid of merit.

6. The appellants are directed to pay the arrears of rent as on date to the temple within 15 days from the date of receipt of this order. If the appellants fail to comply with the above directions within the stipulated period, the Executive Officer is directed to take action in accordance with law. The appellants are at liberty to approach the temple authority for necessary permission to carry out the repair works in the above premises, after paying the entire rental arrears. With the above observation, the appeal petitions are dismissed.

/typed to dictation/

Commissioner

**To**

1. The Appellants through M/s K. Bhawatharini, No.210, Law Chambers, High Court, Madras. 104.
2. The Executive Officer through M/s A.S. Kailasam and Associates, 86, Law Chambers, High Court Buildings, Chennai.104.

**Copy to:**

3. The Joint Commissioner, HR&CE Admn.Dept., Vellore.
4. The Inspector, HR&CE Admn.Department, Chingleput.
5. The Assistant Commissioner, HR&CE Admn.Department, Kancheepuram.
6. Extra.