

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

Thursday the 28th day of February, Two thousand and thirteen.

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

A.P. 49/2012 D2

Between.

M.N.K. Padmanabhan

..... Appellant

And

The Executive Officer/Assistant Commissioner,
Arulmighu Thayumanavarswami Temple,
Malaikottai, Tiruchirapalli 620 002.

... Respondent.

In the matter of Arulmighu Thayumanaswamy Temple, Rock Fort,
Trichy.

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 9.4.2012 of the Assistant Commissioner/Executive Officer,
Arulmighu Thayumanaswamy Temple, Trichy in fixing fair rent.

Order in D.Dis. A.P. 49/2012 (D2) dated : 28.2.2013.

The above appeal petition having come on for final hearing before me
on 5.2.2013 in the presence of Thiru R. Subramanian, Counsel for the
Appellant. Upon hearing the argument and after perusing the records,
the following order is made.

ORDER

The above appeal petition filed under Section 34 (A) (3) of the Act against the notice dated 9.4.2012 of the Assistant Commissioner/ Executive Officer of the temple in fixing fair rent.

2. The appellant contended that proceedings is non speaking, arbitrary and opposed to the directions given by the Commissioner, H.R. & C.E. The respondent ought to have furnished the worksheet showing the calculation of fair rent as per the directions in Writ Appeal No. 2000 of 2003 and the proceedings of the Commissioner. The fair rent calculated and fixed for 2770 sq.ft where as the appellant has occupied only 2129 sq.ft.. The appellant's shop situate within the Kalmandaplam and not within the main road, in such a case, as per clause 7 of G.O.Ms.No.353, rent has to be fixed at 0.30% of the market value. The respondent simply stated that the appellant has not accepted the fair rent for a long period which is hardly a ground for fixing fair rent. The respondent has not followed the guidelines given in G.O.Ms.No. 353 dated 4.6.1999 and G.O.Ms.No.456 dated 9.11.2007. The appellant has been maintaining the property and has been making contributions to the temple as and when required.

3. I heard Thiru R. Subramanian, Counsel for the appellant and perused the relevant records. The appellants prayer to fix the fair rent at 0.30% of the market value as per Clause 7 of the G.O.Ms.No. 353 is not acceptable. Because the said property is not situate inside the praharam or temple mandapam but adjoining to the main Road. Hence fair rent has been fixed at 0.60 % of market value as per G.O.Ms.No. 456 is correct. Further as prayed by the appellant working sheet has been furnished to the appellant. The Appellant disputed the area occupied by him stating that measurement taken by the department engineers includes the wall, but the appellant filed the sketch prepared by his own engineer excluding the wall. The building has been measured as per

Public Works Department norms and fair rent fixed as per Government Order. Hence, I find no infirmity or wrong in the fair rent calculation. Accordingly the impugned notice is hereby confirmed and the appeal petition is dismissed and the appellant is directed to settle the entire arrears as on date within 15 days from the date of receipt of this order.

/typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/ true copy / by order /

Superintendent.

To

1. The Appellant through Thiru R. Subramanian, Advocate, No. 51, Law Chambers, High Court Buildings, Chennai.104.
2. The Assistant Commissioner/Executive Officer, Arulmighu Thayumanaswami Temple, RockFort, Tiruchy 620 002. t.)

Copy to:

3. The Joint Commissioner, HR&CE Admn.Dept., Tiruchirapalli-6.
4. The Inspector, HR&CE Admn.Department, Trichy (East), Tiruchirapalli-2.
5. The Assistant Commissioner, HR&CE Admn.Department, Tiruchirapalli-2.
6. Extra.