

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

Monday the 12th day of January, Two Thousand and Fifteen.

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

A.P. 25/2014

Between

Pukhraj P. Shah S/o Pratapji

.. Appellant.

And

**Executive Officer,
Arulmighu Chennai Ekambareswarar Temple,
Mint, Chennai 600 003.**

..Respondent.

**In the matter of Arulmighu Ekambareswarar Temple, Mint Street,
Chennai-3.**

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 19.1.2008 of the Executive Officer of the above Temple informing the fair rent.

Order in D.Dis. A.P. 25/2014 D2 dated : 12.1.2015.

The above Appeal Petition having come on for final hearing before me on 16.12.2014 in the presence of Thiru Su. Srinivasan, Counsel for the appellant and Thiru S.D. Ramalingam, Counsel for the Respondent. Upon hearing their arguments and perusing the connected records the following order is made:-

ORDER.

The above appeal petition filed under Section 34 (A) (3) of the Act against the notice dated 19.1.2008 of the Executive Officer of the temple informing the fair rent.

2. The appellant contended that in the year 2001 the rent fixed by the respondent was Rs. 882/- per month, subsequently, it was

enhanced to Rs. 1,360/- from November 2001 to June 2004. Thereafter initially 33.33% was enhanced from 1.7.2004, however subsequent to the clarification; it was reduced to 15%. Hence, it was re-fixed at Rs. 1,564/- per month from 1.7.2004 to 31.6.2010. As per G.O.Ms.No. (Rt) 456 dated 9.11.2007, the rent could be enhanced by 15% once in three years and therefore, from 1.7.2010 the rent was to be enhanced by 15% from Rs. 1,799/-. If the rent is enhanced by 15% the Appellant is to pay Rs. 2,069/- per month. The Respondent vide proceedings dated 20.6.2013 had demanded to pay Rs. 3,05,393/- /- (upto May, 2013) without giving any break up or any other details. One of the tenant under the respondent is named as Manoj Stainless, in the same complex is in occupation of 252 sq.ft. he was initially paying rent at the rate of Rs. 2,197/- from 2004 to 2007 and from 2007 to 2010 onwards. However, without any logic or reasons and in an arbitrary manner the Appellant is being asked to pay exorbitant rent, while Manoj Stainless is paying only Rs. 2,527/- per month. The respondent did not follow the procedure as contemplated or the directions given by this authority in similar such cases.

3. In the counter affidavit, the respondent/Executive Officer has stated that the fair rent was fixed as per the government orders from 1.11.2001 onwards at Rs. 4,450/-. Even as per the grounds the Appellant admits the enhancements to be done once in three years at 15%. With regard to the shop let out to one Manoj Stainless, the rent was fixed not at Rs. 2,197/- as mentioned in the grounds and the Appellant is put to strict proof of the same. Even as per the affidavit of the petitioner the area let out to that tenant is said to be 252 sq.ft. only and the shop in the occupation of the Appellant is 312 sq.ft. Further the shop in occupation of the Appellant is very near to the Mint Street and the entrance of the temple. The fair rent is fixed for the portions in the occupation of the tenants by taking the cost of construction and the guide line value for the land. The notice dated 19.1.2008 was served on the appellant and the same has been acknowledged by him or his employee. Pursuant to the same the appellant has sent the letter dated 16.9.2008 to the Executive

Officer stating that they have sent the letter to the Commissioner, HR & CE Department for reduction of rent. Apart from that the appellant has also sent a notice dated 29.4.2008 through his counsel to the Commissioner, H.R. & C.E. Department with a copy to the temple. The temple has also sent the letter dated 20.3.2013 and letter dated 20.6.2013. Both the letters have been acknowledged by the appellant. In spite of the same no reply has been sent by them. The shop in occupation of the appellant forms part of No. 315, Mint Street only and hence the guideline value has been correctly taken while calculating the fair rent. The rent was revised and re-fixed for the appellant as per the Government orders and the direction and there is no discrimination in fixing the rent as alleged by the Appellant. All the revisions have been communicated to the appellant by letters and counsel's notice. The appellant has sent the reply to the counsel's notice also. The property is in prime commercial locality of Chennai in Sowcarpet area. The market rent in the area is about Rs. 30/- to Rs.40/- per Sq.ft. Further it is very difficult to get a shop in that locality without paying a heavy advance and pagadi. Taking this into consideration the rent fixed for the shop in occupation of the Appellant is reasonable. In spite of the same the Appellant is refusing to pay the fair rent and fixes his own fair rent stating that he is liable to pay only that amount.

4. I heard Thiru Su. Srinivasan, Counsel for the appellant S.D. Ramalingam, Counsel for the Respondent and perused the relevant records. The counsel for the appellant mainly argued that one of the tenants under the respondent Thiru Manoj Stainless in the same complex is occupying 252 sq.ft and the fair rent has been fixed at Rs. 2,527/- per month, but the appellant is asked to pay higher rent. It is admitted by the appellant that he is in occupation of 312 sq.ft. and the appellant shop is very near to the Mint Street and the entrance of the temple. The fair rent has been fixed by the Committee taking into account the area in occupation of the tenants and the guideline value of the land. Hence, the fair rent fixation statements were served on the appellant in the year 2008 itself. But he failed to pay the fair rent so far. The suit property is in prime

commercial locality of Sowcarpet in Chennai. The prevailing market rental value is higher than that of the fair rent fixed by the Committee. As per Section 34 (A) of the Tamil Nadu HR & C.E. Act, the fair rent committee has to fix the fair rent taking into account the prevailing market rental value and the guidelines prescribed by various Government orders. But in this case, the fair rent has been fixed taking in to account the guideline value only. If the fair rent is fixed taking into account the prevailing market rental value in that locality, the fair rent will be much higher than the present one. But the appellant is not even ready to pay the lesser rent fixed by the Committee. The fair rent is fixed as per the guidelines issued in various Government Orders.

Therefore, I find no valid reason to interfere with the impugned notice and it is liable to be confirmed. Accordingly, the impugned notice is hereby confirmed and the appeal petition is dismissed as devoid of any merits.

/typed to dictation/

Sd. P. Dhanapal,
Commissioner.

/ true copy/ by order/

Superintendent.

To

1. The Appellant through Thiru Su. Srinivasan, Advocate, New No.19, Old No.10, Pattammal Street, Raja Annamalaipuram, Chennai 600 028.
2. The Executive Officer through Thiru S.D. Ramalingam, New No. 321, Old No.156, Linghi Chetty Street, Chennai 600 001.

Copy to

3. The Joint Commissioner, H.R. & C.E. Admn.Dept., Chennai.34.
4. The Assistant Commissioner, H.R. & CE Admn.Dept., Chennai.34.
5. Extra.