

(2013) 06 MAD CK 0110

In the Madras High Court

Case No : C.R.P. (NPD) No. 1941 of 2013 and M.P. No's. 1 and 1 of 2013

Mrs. U. Santhosh

APPELLANT

Vs

The Executive Officer

RESPONDENT

Date of Decision : 13-06-2013

Acts Referred:

Citation : (2013) 06 MAD CK 0110

Hon'ble Judges : K. Ravichandrababu, J

Bench : Single Bench

Advocate : K. Bhawatharini, for the Appellant;

Final Decision : Dismissed

Judgement

K. Ravichandrababu, J.—These civil revision petitions are filed against the orders made in A.P. Nos. 18 and 19 of 2012 on the file of the

Commissioner of H.R. & C.E. Department, Chennai-34, whereby the appeals preferred by the petitioners u/s 34(A) of the Hindu Religious and

Charitable Endowments Act, 1959 against the notice dated 15.09.2011 issued by the respondent herein, were dismissed. The petitioners are

tenants under the respondent temple in respect of premises measuring 52 sq. ft. and 823 sq. ft. respectively. The Fair Rent Fixation Committee

fixed the rent at Rs. 656/- p.m. and Rs. 6,750/- p.m. respectively through proceedings dated 18.03.2002 and communicated the same to the

petitioners also on 01.04.2002.

2. It is seen that before fixing the fair rent, the petitioners herein were heard on 18.03.2002 and even after passing of the said order fixing the fair

rent and communicated the same to the petitioners as early as in the year 2002, they have not chosen to challenge the same. What was under

challenge before the Commissioner of H.R. & C.E. is against a notice issued by the respondent herein on 15.09.2011, calling upon the petitioners

to pay the arrears of rent due to the temple till 30.06.2011. The Authority below considered the fact that the petitioners have not filed any appeal

against the original order of fixing the fair rent and what was challenged is against a consequential notice issued by the respondent. Therefore, the

appeals preferred by the petitioners were dismissed holding the same were not maintainable. Challenging the said common order passed in the

appeals, the present civil revision petitions are preferred before this Court.

3. Mrs. K. Bhawatharini, learned counsel appearing for the petitioners submitted that the fixation of fair rent done by the Committee was not in

accordance with the procedure contemplated under the Act and even though the order was passed as early as in the year 2002, the petitioners

were paying only the original rent prevailed before such fixation. The respondent temple also received the same continuously and therefore, the

impugned notice cannot be issued. Thus, the learned counsel submitted that the appeals preferred before the Commissioner are maintainable. I am

unable to appreciate such contention raised by the learned counsel for the petitioners.

4. Admittedly, the order of fixation of fair rent came to be passed in the year 2002 and was communicated to the petitioners immediately. The said

fact is not disputed. The contention of the tenants that they were paying the old rent and the same was also received by the temple, does not mean

that the temple is not entitled to seek the arrears of rent as per order of fixation of fair rent. Therefore, the notice issued on 15.09.2011, which was

challenged before the Appellate Authority, is only a consequential proceedings demanding the arrears of rent and therefore, the petitioners are not

entitled to challenge the consequential proceedings without challenging the original order of fixing the fair rent. The Hon'ble Supreme Court in a

decision reported in *Edukanti Kistamma (Dead) thr. Lrs. and Others Vs. S. Venkatareddy (Dead) thr. Lrs. and Others*, has held at paragraph No.

22 as follows:

22. It is a settled legal proposition that challenge to consequential order without challenging the basic order/statutory provision on the basis of

which the order has been passed cannot be entertained. Therefore, it is a legal

obligation on the part of the party to challenge the basic order and only if the same is found to be wrong, consequential order may be examined (vide P. Chitharanja Menon and Others Vs. A. Balakrishnan and Others, ; H.V. Pardasani and Others Vs. Union of India (UOI) and Others, and Government of Maharashtra and Others Vs. Deokar's Distillery, .

Therefore, the Appellate Authority has rightly rejected the appeals and I find no illegality or irregularity in the said common order. Consequently, the civil revision petitions are dismissed. However, the learned counsel appearing for the petitioners seeks liberty to challenge the original order of fixation of the fair rent. It is open to the petitioners to file any such proceedings provided they are in accordance with law however subject to further satisfying the question of limitation as well. No costs. The connected miscellaneous petitions are also dismissed.