

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.A.Nos.1524 to 1526 of 2015

N. Sivaraj ...Appellant in W.A.No.1524 of
2015/Petitioner

M.S.Palanichamy ...Appellant in W.A.No.1525 of
2015/Petitioner

M.Vijayakumari ...Appellant in W.A.No.1526 of
2015/Petitioner

versus

1. The Secretary to Government
Municipal Administration and Water Supply
Department Fort St. George
Chennai-600 009.
2. The Commissioner for Municipal Administration
Chepauk Chennai-5.
3. The Commissioner of
Udumalaipet Municipality Udumalaipet
Tiruppur District.
4. Mr.Saravanakumar
5. The Municipal Council
Rep. by its Chairman
Udumalaipet Municipality
Udumalaipet Tiruppur District. ... Respondents

Appeal filed against the order passed by this Court dated
22.9.2015 passed in W.P.Nos.29710, 29711 and 29712 of 2015.

PRAYER IN W.P.NO.29710 of 2015 : Writ petitions filed under

Article 226 of the Constitution of India for issue of writ of certiorarified mandamus calling for the records of the third respondent made in proceedings in Na.Ka.No.874/2015/A1 dated 07.05.2015 in so far as fixation of Exorbitant rent is concerned and quash the same and consequently direct the respondents 3 to 5 to determine the fair rent for the Shop Nos.23, taken on lease by the petitioner in Rajendra Road, Shopping Complex, Udumalpet by adopting the same principles as laid down under the Tamil Nadu Building (Lease and Rent Control) Act for fixation of fair rent.

PRAYER IN W.P.NO.29711 of 2015 : Writ petitions filed under Article 226 of the Constitution of India for issue of writ of certiorarified mandamus calling for the records of the third respondent made in proceedings in Na.Ka.No.874/2015/A1 dated 07.05.2015 in so far as fixation of Exorbitant rent is concerned and quash the same and consequently direct the respondents 3 to 5 to determine the fair rent for the Shop No.27, taken on lease by the petitioner in Central Bus Stand inside shop Palani Road, Shopping Complex, Udumalpet by adopting the same principles as laid down under the Tamil Nadu Building (Lease and Rent Control) Act for fixation of fair rent.

PRAYER IN W.P.NO.29712 of 2015 : Writ petitions filed under Article 226 of the Constitution of India for issue of writ of certiorarified mandamus calling for the records of the third respondent made in proceedings in Na.Ka.No.874/2015/A1 dated 07.05.2015 in so far as fixation of Exorbitant rent is concerned and quash the same and consequently direct the respondents 3 to 5 to determine the fair rent for the Shop Nos.13, taken on lease by the petitioner in Palani Road, Mini Market, Udumalpet by adopting the same principles as laid down under the Tamil Nadu Building (Lease and Rent Control) Act for fixation of fair rent.

For appellant : Mr.Vijaynarayanan, Senior counsel
for Mr.N.Umapathi

For Respondents : Mr.A.S.Thambusamy
3 & 4

For RR 1,2 & 5 : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

COMMON JUDGMENT
(made by K.K.SASIDHARAN, J.)

These three intra court appeals are directed against the

order dated 22 September 2015 whereby and whereunder the learned Single Judge dismissed the Writ Petitions filed by the appellants, challenging the order dated 7 May 2014 on the file of the Commissioner, Udumalpet Municipality, fixing the rent @ Rs.400 per sq.ft.

2. Heard the learned Senior counsel for the appellants and the learned Standing Counsel for Udumalpet Municipality.

3. The Commissioner, Udumalpet Municipality, issued a notification calling for bids for grant of lease for taking the shops belonging to the local body for the period from 2015-16 to 2017-18. The appellants submitted their bids. The local body accepted their bids and granted lease. The appellants thereafter challenged the order passed by the Udumalpet Municipality before the writ court primarily on the ground that exorbitant amount was fixed as monthly rent. It was the contention of the appellants that they were compelled to quote the rate which was much more than the market rate.

4. The learned Single Judge negatived the contention primarily on the ground that the appellants participated in the auction voluntarily and agreed to pay the rent and as such, it is not open to them to resile from the contract.

5. There is no dispute that shops in question belong to the municipality. The local body issued a notification. In response to the said notification, the appellants took part in the auction, knowing fully well the terms and conditions. The appellants offered a particular amount and it was accepted by the local body. The appellants have contended that they were compelled to quote the rent prescribed by the local body. The contention was denied by the local body. It is for the appellants to decide as to whether they should take the shop on lease by paying the rent fixed by the local body.

6. The jurisdiction of the High Court in a matter of this nature is very limited. The local body constructed shopping complex under the expectation that it would fetch income for undertaking welfare measures. The appellants wanted to do business by making use of the shops. However, they are not prepared to pay the rent fixed by the local body. It is always open to the appellants to withdraw their offer, subject to the conditions of notification, so as to enable the Municipality to conduct re-auction. This is essentially a business so far as the appellants are concerned. They should either take the shops by quoting the rate prescribed by the local body or quit.

7. The learned single Judge considered the issue raised by the appellants in the light of the notification issued by the Municipality and rightly dismissed the Writ Petitions. We do not find any error or illegality in the said order, warranting interference by entertaining these intra court appeals.

8. In the upshot, we dismiss the intra court appeals. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
Municipal Administration and Water Supply
Department Fort St. George
Chennai-600 009.
2. The Commissioner for Municipal Administration
Chepauk Chennai-5.
3. The Commissioner of Udumalaipet Municipality
Udumalaipet Tiruppur District.
4. The Chairman
The Municipal Council
Udumalaipet Municipality
Udumalaipet Tiruppur District.

+1cc to Mr.N.Umapathi, Advocate, S.R.No.57424
+1cc to the Government Pleader, S.R.No.57773
+1cc to A.S.Thambuswamy, Advocate Sr.56967[23/11/2015]
+3cc to Mr.N.Umapathi, Advocate SR.56874[26/11/2015]

W.A.Nos.1524 to 1526 of 2015

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CA(05/11/2015)

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