

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.10.2016

CORAM:

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.No.5347 of 2013

and

M.P.No.1 of 2013

S.Sivasankaran

.. Petitioner

Vs.

1.The Commissioner of Labour,
Teynampet,
Chennai 600 018.

2.The Executive Engineer,
Building Construction &
Maintenance Department,
Thiruvavarur.

3.The Inspector of Labour,
Thiruvavarur.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondents to implement the recommendation of the second respondent in Letter No.540 M/Tho27/2000/VI/dated 20.10.2000 within a time to be fixed by this Court.

For petitioner : Mr.G.L.Ramshankar

For Respondents : Mr.Zakir Hussain,
Govt. Advocate.

O R D E R

This writ petition is filed to implement the recommendation of the second respondent in Letter No.540 M/Tho27/2000/VI/dated 20.10.2000.

2. The petitioner is the owner of the premises bearing No.26/9/1, Kaliyamman Koil Street, Mannargudi Taluk, Thiruvavarur District, which he has rented out to the Assistant Inspector of Labour Circle I and II from 01.04.1984 onwards for Rs.770/- p.m. On 01.03.2000, the petitioner requested the first respondent for

enhancement of rent as per G.O.No.753 dated 07.04.1984. Thereafter, the premises was inspected by the Executive Engineer on 20.10.2000 and a recommendation was made by him for enhancement of rent at Rs.4,400/- p.m. with effect from 01.03.1996. Pursuant to the recommendation made by the Executive Engineer, the respondents have not passed any order on the recommended enhanced rent. Aggrieved against the inaction, the petitioner has filed the present writ petition.

3. Heard Mr.G.L.Ramshankar, learned counsel for the petitioner and Mr.Zakir Hussain, learned Government Advocate for respondents.

4. Mr.Zakir Hussain, learned Government Advocate for the respondents would submit that the Government has passed G.O.Ms.No.329 dated 30.08.2001, in which, it is stated as follows:

"The Government after careful consideration direct that the existing powers of delegations to Secretaries to Government and to Head of Departments towards the sanction of rent for private buildings be enhanced to Rs.15,000/- per month and Rs.12,500/- per month respectively subject to the plinth area norms with references to staff strength and the Government after careful consideration direct that the existing powers of delegations to Secretaries to Government and to Head of Departments towards the sanction of rent for private buildings be enhanced to Rs.15,000/- per month and Rs.12,500/- per month respectively subject to the plinth area norms with references to staff strength and reasonable of rent being satisfied and with following further conditions:-

i) In respect of fixing of new rent for old building, the increase of rent should not be more than 5 percent on the existing rent.

ii) In respect of fixing of rent for new buildings, the rent details of other Government Offices situated in the nearby areas should be collected and the average rent rate shall be arrived. Based on the average rent arrived, the rent shall be fixed if it is within 5 percent increase over average rent arrived."

5. Further, the learned Government Advocate would submit that in view of the above G.O. the petitioner's request for enhancement of rent cannot be considered. However, he has submitted that if a representation is given by the petitioner to the respondents, the same may be considered.

6. It is seen that the recommendation for enhancement of rent was made prior to issuance of G.O.Ms.No.329 dated 30.08.2001. On a bare perusal of the said G.O., it is clear that the G.O. cannot have retrospective effect and can have only prospective effect. Though the recommendation was made way back on 20.10.2000, the respondents have not taken any action to pay the enhanced rent. G.O.Ms.No.329 dated 30.08.2001 cannot nullify the recommendation made by the Executive Engineer which has been kept pending by the respondents. In such circumstances, the petitioner is entitled for enhancement of rent at the rate of Rs.4,400/- p.m from 1.3.1996.

7. Under such circumstances, the petitioner is directed to give a fresh representation to the third respondent. On receipt of such representation, the third respondent shall consider the same in the light of the above observation made in this order and pass appropriate orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

cla

To

1.The Commissioner of Labour,
Teynampet,
Chennai 600 018.

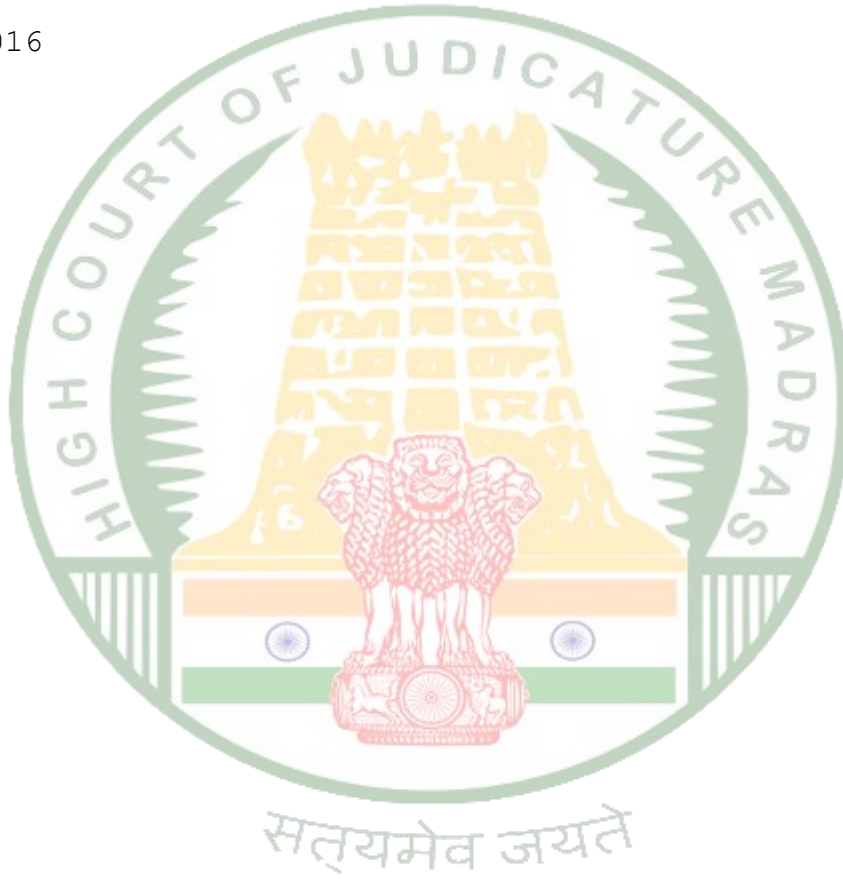
2.The Executive Engineer,
Building Construction &
Maintenance Department,
Thiruvavarur.

3.The Inspector of Labour,
Thiruvavarur.

+2 ccs to Mr.G.L.Ramshankar Advocate sr61359
+1 cc to Government Pleader sr 61587

W.P.No.5347 of 2013

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