

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.A.Nos.1059 to 1066 of 2016

N.Krishnasamy ... Appellant in W.A.No.1059 of 2016
Bharath Rig
rep.by its Partner K.Hussain ...Appellant in W.A.No.1060 of 2016
E.Lakshmanan ...Appellant in W.A.Nos.1061 & 1062 of 2016
R.Rajendran ... Appellant in W.A.No.1063 of 2016
P.T.Chhadwa
rep.by his Authorised Signatory
K.Jayachandran ... Appellant in W.A.No.1064 of 2016
K.Palanisamy ... Appellant in W.A.No.1065 of 2016
A.Gopal ... Appellant in W.A.No.1066 of 2016
-vs-
Salem Corporation
rep.by its Assistant Commissioner
Ammamet Ward Circle
Salem
... Respondent in all the writ
appeals

Appeals under Clause 15 of the Letters Patent, against the order dated 13.07.2016 made in W.P.Nos.23827 to 23832, 24545, & 24546 of 2016.

WP 24545 of 2016

Writ petition filed under Article 226 of the constitution of India, to issue a writ of certiorarified Mandamus Calling for the records relating to the order of the respondent dated 05.04.2016 in Na.Ka.No. L8/676/16 and quash the same and consequently direct the respondent rent for the petitioners stop at No.8 situated at Old Bus Stand Building. Salem Corporation Building, Salem.

WP.No.24546/2016

Writ petition filed under Article 226 of the Constitution of India to issue it unit of certiorarified Mandamus. Calling for the records relating to the order of the respondent dated 05.04.2016 in Na.Ka.No. L8/676/16 and quash the same and consequently direct the respondent to fix any reasonable rent for the petitioner Shop No.6 situated at Old Bus Stand Building Salem Corporation Building Salem.

Writ Petition under Article 226 of the Constitution of India praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

(i) issue a writ of certiorarified mandamus calling for the records relating to the order of the respondent dated 5.4.2016 in Na.Ka. No.L8/676/16, and quash the same and consequently direct the respondent to fix any reasonable rent for the petitioners shop No.9 situated at Kalarampathy Road, Salem (in WP.23827/2016)

(ii) issue a writ of certiorarified mandamus calling for the records relating to the order of the respondent dated 5.4.2016 in Na.Ka. NO.L8/676/16 and quash the same and consequently direct the respondent to fix any reasonable rent for the petitioners Shop No.2 situated at Kalarampatty Road Salem Corporation Building Salem (in WP.No.23828/2016)

(iii) issue a writ of certiorarified mandamus calling for the records relating to the order of the respondent dated 5.4.2016 in Na.Ka. NO.L8/676/16 and quash the same and consequently direct the respondent to fix any reasonable rent for the petitioners Shop No.2 situated at Kalarampatty Road Salem Corporation Building Salem (in WP.No.23829/2016)

(iv) issue a writ of certiorarified mandamus calling for the records relating to the order of the respondent dated 5.4.2016 in Na.Ka. NO.L8/676/16 and quash the same and consequently direct the respondent to fix any reasonable rent for the petitioners Shop No.3 situated at Kalarampatty Road Salem Corporation Building Salem (in WP.23830/2016)

(v) issue a writ of certiorarified mandamus calling for the records relating to the order of the respondent dated 5.4.2016 in Na.Ka. No.L8/676/16 and quash the same and consequently direct the respondent to fix any reasonable rent for the petitioners Shop No.1 situated at Kalarampatty Road Salem

Corporation Building Salem(in WP.23831/2016)

(vi) issue a writ of certiorarified mandamus calling for the records relating to the order of the respondent dated 5.4.2016 in Na.Ka. NO.L8/676/16 and quash the same and consequently direct the respondent to fix any reasonable rent for the petitioners Shop No.10 situated at Kalarampatty Road Salem Corporation Building Salem (in WP.23832/2016 pending WP.No.23827 to 23832/2016.

For Appellants :: Mr.K.Selvaraj
For Respondent :: Mr.S.Diwakar
Additional Government Pleader

JUDGMENT

(Judgment of the Court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel for the appellants. Mr.S.Diwakar, learned Additional Government Pleader takes notice on behalf of the respondent.

2. These writ appeals are against the order of the learned single Judge, wherein the learned single Judge has observed that since the appellants/writ petitioners have not agreed for the enhanced rental, the respondent is at liberty to go ahead with the auction. However, their possession shall not be disturbed without the permission of the Court.

3. The issue raised in these appeals is squarely covered by the order of this Court dated 15.7.2016 made in W.A.No.889 of 2016 (Venkateswara Raj v. State of Tamil Nadu rep.by its Secretary to Government, Department of Municipal Administration and Water Supply Department and two others), wherein it has been observed as follows:-

"6. The only grievance expressed by the petitioner/appellant herein is that the rent fixed by the respondent is arbitrary and without following the relevant Government Orders, though the rental has been fixed after a lapse of 16 years. In the above circumstances, this Court is of the considered view that to meet the ends of justice, it would be suffice that if the petitioner/appellant is granted one more opportunity to negotiate with the Corporation for fixation of fair rent. In the event the negotiation is fruitful, it would accrue to

the benefit of the petitioner/appellant, else the respondent would be at liberty to proceed further in the matter.

7. Accordingly, this writ appeal is disposed of directing the petitioner to submit a representation with the respondent and on receipt of the representation, the respondent shall afford an opportunity of personal hearing on the aspect of fixation of rent with the petitioner/appellant and subject to the outcome of the same, the respondent are permitted to proceed further in the matter in accordance with law as observed above."

4. In the light of the above, these writ appeals are disposed of directing the appellants/writ petitioners to submit their representation before the respondent and on receipt of the representation, the respondent shall afford an opportunity of personal hearing on the aspect of fixation of rent with the appellants/writ petitioners and subject to the outcome of the same, the respondent is permitted to proceed further in the matter in accordance with law. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

ss

+2 CC to Mr. K. Selvaraj, Advocate Sr.No.49027
+1 CC to Mr. S. Diwakar, Additional Government Pleader,
Sr.No.49077

W.A.Nos.1059 to 1066 of 2016

TRM (CO)
MD : 17/10/2016

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