

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2016

CORAM

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

Writ Appeal No.889 of 2016  
and  
C.M.P.No.11345 of 2016

Mr.Venkateswara Raj

... Appellant

Vs.

1. State of Tamilnadu  
Rep. by its Secretary to Government,  
Department of Municipal Administration and  
Water Supplies Department,  
Secretariat, Fort St. George,  
Chennai - 600 009.
2. The Commissioner,  
Salem Municipality,  
Office of Salem Municipality (Revenue),  
Salem.
3. The Assistant Commissioner,  
Office of Ammapetai Ward,  
Salem Municipality,  
Salem.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court in W.P.No.22602 of 2016 dated 30.06.2016 and seek to set aside the order.

W.P.No.22602 of 2016 : Petition praying to issue a Writ of Certiorarified Mandamus or any other appropriate Writ or direction in the nature of Writ, Call for the entire records pertaining to G.O.Ms.No.92 Municipality Administration and Water Supply Department dated 03.07.2007 issued by the first respondent and the consequential proceedings Na.Ka.No.L8/676/16 dated 05.04.2016 issued by the third respondent and quash para-4 (iii) of the said G.O.Ms.No.92 Municipality Administration and Water Supply Department dated 03.07.2007 and said consequential proceedings Na.Ka. No.L8/676/16 dated 05.04.2016 issued by the

third respondent and direct the respondents to continuously follow the existing procedure for fixing the rent as directed by the Honourable Supreme Court in the order dated 23.04.1991 passed in Civil Appeal No.1441-1444/91.

For Appellant : Mr.P.Thiagarajan

For Respondents : Mr.P.H.Arvind Pandian(for R2 and R3)  
(Additional Advocate General)  
Assisted by  
Mr.S.Diwakar  
(Special Government Pleader)

For R1 : Mr.P.S.Sivashanmugasundaram,  
Special Government Pleader

#### J U D G M E N T

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

This writ appeal is filed against the order passed by this Court in W.P.No.22602 of 2016 dated 30.06.2016 and seek to set aside the order.

2.Heard the learned counsel appearing for the appellant and also the learned Additional Advocate General representing the respondents 2 and 3 / the Government. In connection with fixation of rent by the impugned order dated 30.06.2016, the appellant / petitioner has approached this Court.

3.The learned Single Judge passed the impugned order dated 30.06.2016, referring to G.O.Ms.No.92, whereby Salem Corporation had re-determined the market value and arrived at the monthly rent payable by each of the respective petitioners and lessees. Learned Judge further pointed out that insofar as those lessees who have agreed to pay the amount are concerned, the Corporation would have no difficulty in allowing them to continue with their lease. Only in respect of the petitioners who have not agreed for the amount fixed by the Salem Corporation and have questioned the demand made by the Corporation, by filing this petition before this Court contending that the market value arrived at is not based on the G.O.Ms.No.92 and the amount has been fixed arbitrarily without taking the market value properly. Learned Single Judge, while noticing that the lease period / licence expired on 30.06.2016, notice was issued 01.07.2016 and the petitioner was directed to hand over possession by 01.07.2016. The learned Single Judge while noting that insofar as the petitioners who were not ready to pay the enhanced amount as demanded. Liberty was granted to the respondents to go ahead

with the auction, but, however the possession of the petitioner premises shall not be disturbed without the permission of this Court.

4.It is the submission of the petitioners/appellant that the rate fixed is not in consonance with the Government Order. Therefore, for reconsideration of the rate fixed, the petitioners/appellant submitted a representation. However, it is the stand of the Salem Corporation that in order to keep the city clean and also to meet out the other obligations of the Corporation, enhancement of rent is mandatory and, accordingly, the rent was revised. While according to the petitioner the rent has been revised by more than 100%, the said allegation is denied by the learned Additional Advocate General.

5.It is seen that the rental has been revised based upon the locality, the frontage of the building and its direction, etc. and, accordingly assessment is made and the rent has been revised on the above basis. It is always open to the appellant to negotiate with the respondent for fixation of rent, which the appellant/persons similarly placed failed to do. However, without following the process of negotiation, the appellant has come before this Court challenging the auction and wants this Court to stay the auction and permit the appellant to continue in occupation. The learned single Judge, affording opportunity to the appellant/petitioner and on their failure to pay the rent fixed, has directed the auction to proceed, however, ordered and possession of the petitioner not be disturbed without the permission of this Court.

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 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.

8.This writ appeal is disposed of with the above observation and direction. However, in the circumstances of the case, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar  
vs  
To

1. The Secretary to Government,  
Department of Municipal Administration and  
Water Supplies Department,  
Secretariat, Fort St. George,  
Chennai - 600 009.
2. The Commissioner,  
Salem Municipality,  
Office of Salem Municipality (Revenue),  
Salem.
3. The Assistant Commissioner,  
Office of Ammapetai Ward,  
Salem Municipality,  
Salem.

+1cc to Mr.P.Thiagarajan, Advocate, S.R.No.40567  
+1cc to Mr.S.Diwakar, Advocate, S.R.No.40035

Writ Appeal No.889 of 2016  
and  
C.M.P.No.11345 of 2016

MP (CO)  
CA (05/08/2016)

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