

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 03.02.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.3931 to 3949 of 2016 (19 WPs.)

and

WMP Nos.3277 to 3295 of 2016 (19 MPs.)

M.Rajavel	..	Petitioner	in	WP.3931	of	2016
T.K.Raja	..	Petitioner	in	WP.3932	of	2016
P.Janaki	..	Petitioner	in	WP.3933	of	2016
P.Palaniappan	..	Petitioner	in	WP.3934	of	2016
T.A.Allavudin Basha	..	Petitioner	in	WP.3935	of	2016
T.Kavitha	..	Petitioner	in	WP.3936	of	2016
K.Pachamuthu	..	Petitioner	in	WP.3937	of	2016
K.Yamunadevi	..	Petitioner	in	WP.3938	of	2016
S.Durai Rajasingam	..	Petitioner	in	WP.3939	of	2016
T.Manokaran	..	Petitioner	in	WP.3940	of	2016
K.Balasundaram	..	Petitioner	in	WP.3941	of	2016
Kaliyammal	..	Petitioner	in	WP.3942	of	2016
M.Selvaganesan	..	Petitioner	in	WP.3943	of	2016
K.Yamunadevi	..	Petitioner	in	WP.3944	of	2016
M.Krishnan	..	Petitioner	in	WP.3945	of	2016
Lakshmi	..	Petitioner	in	WP.3946	of	2016
J.Pasupathi	..	Petitioner	in	WP.3947	of	2016
M.Sivakumar	..	Petitioner	in	WP.3948	of	2016
M.Sivakumar	..	Petitioner	in	WP.3949	of	2016

Versus

The Commissioner

Tiruchengode Municipality Tiruchengode

Namakkal District

.. Respondent in all WPs

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus, calling for the entire records relating to the impugned order passed by the respondent in his proceedings Na.Ka.No.11230/2015/A1 dated 22.1.2016 and quash the same and consequently direct the respondent to accept the petitioners offer to pay the rent by enhancing 30% from the existing rent and extend the lease period.

For Petitioner : Mr.C.Prakasam

For Respondent : M/s.A.S.Thambusamy & B.Anand

O R D E R

With the consent on either side, the writ petitions are taken up for final disposal.

2. The petitioners, have filed these writ petitions seeking to quash the order passed by the respondent municipality, refusing to grant extension of lease in respect of municipal shops in possession of the petitioners as lessees, on an increased monthly rental. The learned counsel for the petitioners referred to G.O.Ms.No.92 dated 03.07.2007 and submitted that the increase now contemplated is unreasonable and more so, in the light of the fact that all the shops are situated in and around the old bus stand, which is no longer a bus stand, but has been converted as a two-wheeler parking area.

3. Mr.A.S.Thambusamy, learned counsel, on behalf of the respondent accepting notice submitted that the impugned notices have been issued to the existing lessees after considering the representation of the lessees for reduction of the increase in rent, from that of the market rate which is prevailing in the area. Therefore, it is admitted that the rent fixed is fair and reasonable and about 85 lessees have accepted the offer and time is there for the petitioners to accept the offer till 05.02.2016.

4. Learned counsel for the respondent Municipality, further submitted that the Old Bus stand is not closed, but it is operated as a bus stand for the mini buses and buses plying from Coimbatore touch the old bus stand.

5. In terms of G.O.Ms.No.92, dated 03.07.2007, after a period of nine years, there is no vested right for an existing lessee to continue in possession and demand that the lease should be extended. The Government Order itself states that after nine years, the rental value has to be re-evaluated based on the market rate. The language used in paragraph No.4(iii) of G.O.Ms.92 dated 03.07.2007, does not make it mandatory for the local bodies to extend the lease period beyond nine years, but it gives the discretion as the expression used is "mspf;fyhk;". Therefore, in my view, this executive instruction cannot take away or affect the welfare of the Municipality since generation of revenue is of paramount importance for a municipality, so as to implement the welfare schemes.

6.However, if the petitioners have any other grievance regarding fixation of the lease rent, it is always open to the petitioners to approach the municipality by way of a representation, which may be considered in accordance with law.

7. In view of the above observation, the impugned orders cannot quashed and accordingly, writ petitions fail and they are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Commissioner
Tiruchengode Municipality Tiruchengode
Namakkal District

+2 ccs to Mr.C.Prakasam Advocate sr.7205
+1 cc to Mr.A.S.Thambusamy Advocate sr.7053

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