

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2017

CORAM

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

W.P. No.16522 of 2017

and

W.M.P.No.17878 of 2017

Nalini

...Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu
Municipal Administration and Water Supply
Department,
Fort St.George, Secretariat,
Chennai- 600 009.
2. The Director of Municipal Administration,
Municipal Administration Department,
Chepauk, Chennai- 600 005
3. The Regional Director of Municipal Administration,
Sarathi Nagar,
Kakithpattarai,
Vellore-12, Vellore District.
4. The District Collector
Vellore District,Vellore.
5. The Municipal Commissioner
Wallajapet Municipality,
Wallajapet, Vellore District

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of certiorari calling for the records relating to the impugned order in Na.Ka.No.2164/2016/A1 dated 09.05.2017 passed by the fifth respondent in respect of the petitioner's shop No.3 situated at Municipality Buildings, first floor, Walajapet, Vellore District and quash the same.

For Petitioner : Mr. A.R.Rajesh Kanna

For Respondents : Mr.P.V.Selvakumar
Additional Government Pleader

ORDER

This writ petition is filed for issuance of a Writ of certiorari calling for the records relating to the impugned order in Na.Ka.No.2164/2016/A1 dated 09.05.2017 passed by the fifth respondent in respect of the petitioner's shop No.3 situated at Municipality Buildings, first floor, Walajapet, Vellore District and quash the same.

2. Heard both sides.

3. The writ petitioner challenging the show cause notice issued by the fifth respondent moved this writ petition.

4. Admittedly the building in occupation of the writ petitioner belongs to the Municipality Buildings. The Municipality building was leased out in favour of the writ petitioner and she is running an Advocate Office in the premises. The writ petitioner claims that she is continuously in the occupation of the municipality building for a period of about 26 years and regularly paying monthly rent to the Walajapet municipality and she had not committed any default in respect of the payment of rent so far and therefore she claims that the enhancement of monthly rent from Rs.1313 to Rs.5325/- with effect from 01.04.2017 is irregular and the fifth respondent ought not to have enhanced the monthly rent.

5. The building is situated in the main road of Walajapet, Vellore District and more specifically nearer to the Walajapet bus stand. Hence, it is a prime area in the locality and the enhancement of rent after many years by Municipality is inevitable. The authorities of the Municipality are to be cautious and more vigilant in renting out the building and in respect of the recovery of monthly rent from the lessors/tenants. From and out of the tax proceeds the Municipal buildings are constructed by the respective Municipalities and it is the duty on the part of the authorities to be vigilant over the municipality building and recover the rent properly and promptly. Any lacuna in this regard should be viewed very seriously by the authorities concerned against the erring officials who are committing such irregularity with regard to the recovery of rent or arrears from the tenants/lessors. In the case on hand, the rent was enhanced from Rs.1313/- to Rs.5325/- with effect from 01.04.2017 and the claim of the writ petitioner who is none other than a practising advocate in Vellore District, should not have objected to the same. Since the enhancement is from Rs.1313/- to Rs.5325/-, which seems to be reasonable, and when the writ petitioner is in occupation of the building in the prime locality and running an advocate office

and earning for herself, she must be whole hearted by paying the rent, which will go to the welfare of the poor people residing in that locality. Hence, the writ petitioner ought to have accepted the enhancement without raising any further objection, in view of the fact that the enhancement is not exorbitant and well within the parametres.

6. This apart, the writ petition is only challenging a show cause notice issued by the fifth respondent, perhaps for enhancement of rents with effect from 01.04.2017. The writ petition under Article 226 of the Constitution of India challenging the show cause notice cannot be entertained unless if such show cause notice is issued without jurisdiction or a specific allegation of malafide is raised against the authority concerned. In the absence of any such ground no writ petition can be entertained against the show cause notice. It is for the writ petitioner to submit her explanation to the fifth respondent and it is left open for the authorities to consider the representation and take appropriate decision in accordance with law. Therefore, this Court is not inclined to entertain this writ petition and consequently the writ petition stands dismissed as not maintainable. However there shall be no order as to costs. Consequently miscellaneous petition is also closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1. The Secretary to Government of TamilNadu
Municipal Administration and Water Supply
Department,
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Chennai- 600 009.
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3. The Regional Director of Municipal Administration,
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Vellore-12, Vellore District.

4. The District Collector
Vellore District,Vellore.
5. The Municipal Commissioner
Wallajapet Municipality,
Wallajapet, Vellore District

+1cc to Mr.A.Rajesh Kanna, Advocate Sr. 45603

+1cc to Mr.P.V.Selvakumar, Advocate Sr. 45933

W.P. No.16522 of 2017
and
W.M.P.No.17878 of 2017

AR(V)
VR(21/07/2017)



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