

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.12.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A Nos.562 and 563 of 2016,
WMP Nos.7494,7495 and 7496 of 2016

M.Muthu ...Appellant W.A.No.562/2016/Petitioner
R.Muthukrishnan ...Appellant W.A.No.563/2016/Petitioner

Vs

1.The Commissioner,
Salem Corporation,
Salem.

2.The Assistant Commissioner,
Suramangalam Ward Office,
Salem Corporation, Salem. ...Respondents in both Appeals/
Respondents in both

Common Prayer:- Writ Appeals filed under clause 15 of Letters Patent, against the order made in W.P.Nos.31712 and 33279 of 2015 respectively dated 17.02.2016.

Common prayer in WP. Nos.31712 & 33279/15:

Petition Under Article 226 of the Constitution of India praying for a writ of certiorari to call for records relating to the impugned proceedings issued by the second respondent in K1/34694/1993 dated 23/07/2015 and to quash the same.

For Appellants in both Appeals : Mr.R.N.Amarnath

For Respondents in both Appeals: Mr.S.Diwakar

C O M M O N J U D G M E N T
(made by K.K.SASIDHARAN,J.)

The Salem Corporation claimed proportionate market rent in respect of the excess area in the possession of the appellant in the respective appeals. The writ petitions were partly allowed by refixing the rent for the area in excess of what was allowed originally. Feeling aggrieved, the writ petitioners are before this Court.

2. We have heard the learned counsel for the appellant in the respective appeals and the learned Standing Counsel for the Salem Corporation.

3. The appellant in the respective appeals (hereinafter referred to as "Licensees") were in actual possession of excess area than the area mentioned in the deed of licence. The Commissioner for Salem Corporation therefore determined the amount payable by the licensees in respect of the excess portion and called upon them to pay the arrears.

4. When a challenge was made to the demand, the learned single Judge passed an equitable order taking into account the background facts.

5. We have perused the order passed by the learned single Judge. We have also perused the entire documents available on record including the arrears statement.

6. The documents available on record clearly shows that the licensees were in possession of more area than the actual area covered by the Deed of Licence. The local body was therefore perfectly correct in calling upon the licensees to pay the proportionate rent for the excess area. The learned single Judge taking into account the actual area in the possession of the Licensees modified the order. We do not find any reason to take a different view in the matter.

7. In the upshot, we dismiss the intra court appeals. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CCC)

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Sub Assistant Registrar

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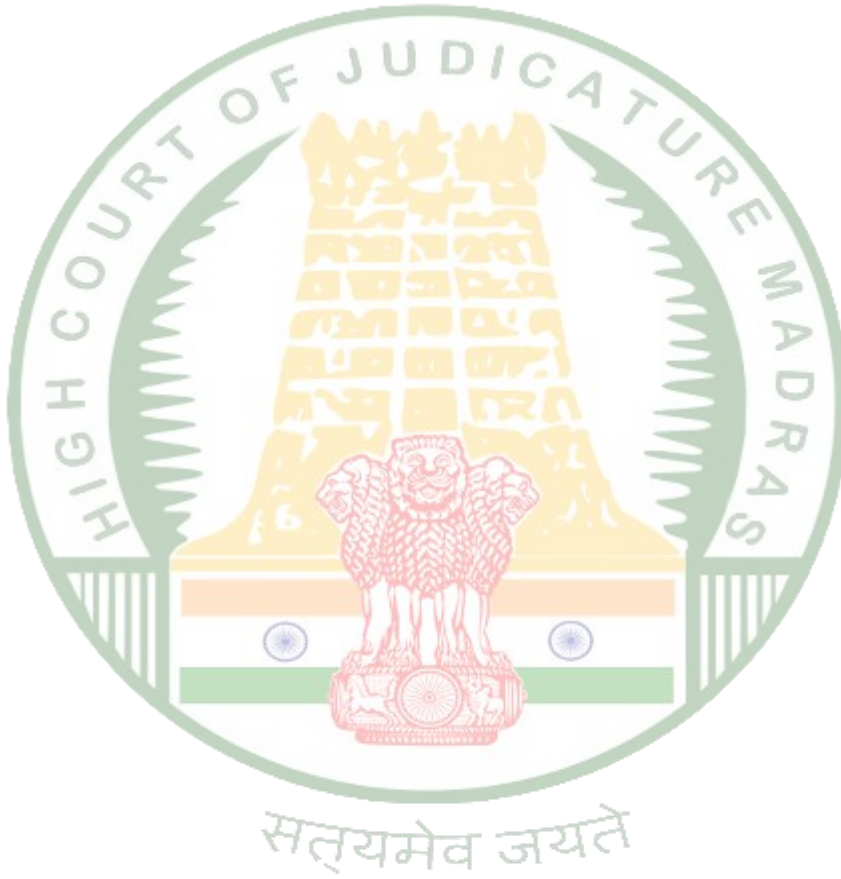
1.The Commissioner,
Salem Corporation,
Salem.

2.The Assistant Commissioner,
Suramangalam Ward Office,
Salem Corporation, Salem.

+2cc to Mr. Advocate, S.R.No. 87054 & 87054

W.A Nos.562 and 563 of 2016

skv (CO)
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