



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.1361 of 2017

and

W.M.P(MD)No.1117 of 2017

S.M.Mathan

... Petitioner

Vs.

1.The Tirunelveli Municipal Corporation,
represented by its Commissioner,
Tirunelveli.

2.The Assistant Commissioner
Thatchanallur Region,
Tirunelveli Corporation,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the files of the second respondent pertaining to its order bearing Na.Ka.No.A/4610/2015 Tha.Va dated 26.12.2016 and to quash the same.

For Petitioner	: Mr.S.C.Herold Singh
For Respondents	: Mr.Aayiram K. Selvakumar, Standing Counsel

O R D E R

This writ petition has been filed, seeking to quash the impugned order dated 26.12.2016, issued by the second respondent, by which, a direction was issued to the petitioner to clear all the arrears of rent along with other applicable charges, failing which, necessary action would be taken within seven days for auctioning the shops in question.

2. The case of the petitioner is that he is a tenant of shop No.14 of the respondent Municipality and has been paying the rent without arrears. All of a sudden, the Municipality had earlier issued a notice dated 04.01.2016, demanding to pay the enhanced monthly rent. Aggrieved by the same, the petitioner approached this Court by filing W.P(MD) No.15283 of 2016, wherein, on the basis of the submission made by the learned Standing Counsel for the respondent therein that the respondent is going to withdraw the order impugned therein, with liberty to issue fresh notices to the petitioner, this Court closed the said writ petition on 18.08.2016 by recording the submission of the respondent. As such, the present impugned order came to be passed without



considering the actual facts and aggrieved by the same, the petitioner has come before this Court with the above said prayer.

3. Now the present situation turned into a different story. According to the learned counsel for the petitioner, the fixation of the present rent along with arrears is agreeable to the petitioner and the demanded amount had already been paid by the petitioner and hence the petitioner is not pressing the main prayer. It is also claimed that the petitioner has paid over and above the amount demanded and hence the petitioner now seeks the refund of the excess amount paid.

4. The learned Standing Counsel appearing for the respondents has not refuted the above contentions raised by the learned counsel for the petitioner.

5. Therefore, the respondents are directed to refund the excess amount, if any to the petitioner within a period of three weeks from the date of receipt of a copy of this order.

6. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To:

1.The Commissioner,
The Tirunelveli Municipal Corporation,
Tirunelveli.

2.The Assistant Commissioner
Thatchanallur Region,
Tirunelveli Corporation,
Tirunelveli District.

+1cc to M/S.Aayiram K.Selvakumar, Advocate SR.No.76578

+1cc to M/S.S.C.Herold Singh, Advocate SR.No. 76482

W.P(MD)No.1361 of 2017

05.09.2017

rm