



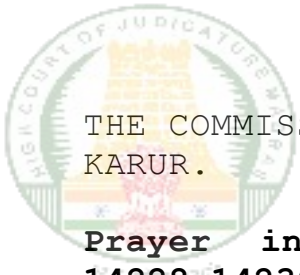
BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2017

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN**W.P(MD) Nos.14214 to 14248, 14039 & 13588 of 2017 and****W.M.P. (MD) Nos.11127 to 11161, 10984 & 10617 of 2017**

MOHAMMED KUTTI	...	Petitioner	in	WP(MD).	14214/	2017
BALAIAMMAL	...	Petitioner	in	WP(MD).	14215/	2017
M.KRISHNASAMY	...	Petitioner	in	WP(MD).	14216/	2017
M.SARANGAPANI	...	Petitioner	in	WP(MD).	14217/	2017
N.RAJAMMAL	...	Petitioner	in	WP(MD).	14218/	2017
A.SARANGAPANI	...	Petitioner	in	WP(MD).	14219/	2017
M.SARASWATHI	...	Petitioner	in	WP(MD).	14220/	2017
MAHESWARI	...	Petitioner	in	WP(MD).	14221/	2017
S.MUNIAPPAN	...	Petitioner	in	WP(MD).	14222/	2017
J.KAVITHA	...	Petitioner	in	WP(MD).	14223/	2017
S.SUBBULAKSHMI	...	Petitioner	in	WP(MD).	14224/	2017
R.RAMANI	...	Petitioner	in	WP(MD).	14225/	2017
R.MADHAVAN	...	Petitioner	in	WP(MD).	14226/	2017
R.MADHAVAN	...	Petitioner	in	WP(MD).	14227/	2017
S.PALANISAMY	...	Petitioner	in	WP(MD).	14228/	2017
VARADHARAJAN	...	Petitioner	in	WP(MD).	14229/	2017
N.PALANIAPPAN	...	Petitioner	in	WP(MD).	14230/	2017
PITCHAI	...	Petitioner	in	WP(MD).	14231/	2017
A.BALAIAMMAL	...	Petitioner	in	WP(MD).	14232/	2017
S.RUKMANI	...	Petitioner	in	WP(MD).	14233/	2017
S.SARASWATHI	...	Petitioner	in	WP(MD).	14234/	2017
G.K.MURTHI	...	Petitioner	in	WP(MD).	14235/	2017
N.MOHAMMED KUTTI	...	Petitioner	in	WP(MD).	14236/	2017
V.RATHINAM	...	Petitioner	in	WP(MD).	14237/	2017
K.PADMAVATHI	...	Petitioner	in	WP(MD).	14238/	2017
R.CHANDRASEKARAN	...	Petitioner	in	WP(MD).	14239/	2017
R.THIRUMUDI	...	Petitioner	in	WP(MD).	14240/	2017
KANDASAMY	...	Petitioner	in	WP(MD).	14241/	2017
A.RAMAKRISHNAN	...	Petitioner	in	WP(MD).	14242/	2017
M.SEENI MOHAMMED	...	Petitioner	in	WP(MD).	14243/	2017
S.VADIVEL	...	Petitioner	in	WP(MD).	14244/	2017
K.S.RAMANATHAN	...	Petitioner	in	WP(MD).	14245/	2017
R.CHINNASAMY	...	Petitioner	in	WP(MD).	14246/	2017
R.PREMA	...	Petitioner	in	WP(MD).	14247/	2017
M.PATTANI	...	Petitioner	in	WP(MD).	14248/	2017
C.NAGAMMAL	...	Petitioner	in	WP(MD).	14039/	2017
M.KADIRVEL	...	Petitioner	in	WP(MD).	13588/	2017



THE COMMISSIONER, KARUR MUNICIPALITY,
KARUR.

... Respondent in All the Petitions

Prayer in WP(MD) Nos. 14214,14215,14217,14219,14220,14222 to 14228,14230,14232 to 14248 and 14039 of 2017 :

WEB COPY

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the notice in Na.Ka.No. 2196/2016/A6 dated 04.07.2017 on the file of the respondent, quash the same and direct the respondent to renew the lease of the Shop of the petitioner Shop Nos. 25,28,24,22,12,19,18,11,30,32,23,26,20,31,3,15,5,29,2,16,10,4,6, 13,21,27,8,9,7,17,1 respectively in Venkateswara Salai, Kamarajar Market, Annapavalavizha Building, Karur by increasing the 15% of the present lease.

Prayer in WP(MD) . 14216 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the notice in Na.Ka.No.2196/2016/A.6 dated 04.07.2017 on the file of the respondent, quash the same and direct the respondent to renew the lease of the petty shop of the petitioner situated at Rajaji Thieurveedhi, Karur by increasing the 15% of the present lease and pass such further or other orders and thus render justice.

Prayer in WP(MD) . 14218, 14229, 14231 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the notice in Na.Ka.No. 2196/2016/A6 dated 04.07.2017 on the file of the respondent, quash the same and direct the respondent to renew the lease of the petitioner Shop Nos.3,2,1 situated Hospital Road, South Side Shop, Karur by increasing the 15% of the present lease.

Prayer in WP(MD) . 14221 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the notice in Na.Ka.No.2196/2016/A6 dated 04.07.2017 on the file of the respondent, quash the same and direct the respondent to renew the lease of the shop of the petitioner Shop situated at Opposite to Registrar Office, Hospital road, South Side Shop, Karur by increasing the 15% of the present lease and pass such further or other orders and thus render justice.

**Prayer in WP(MD) . 13588 of 2017 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the notice in Na.Ka.NO. 2196/2016/A6 dated 04.07.2017 on the file of the respondent, quash the same and direct the respondent to renew the licence of the New Bus Stand Shop No. 1 Karur by increasing the 15% of the present licence fee.

For all Petitioners : Mr.S.Doraisamy, Senior Counsel
for Mr.M.Bindran
For Respondent : Mr.D.Raghu, Standing Counsel
(in all Petitions)

C O M M O N O R D E R

The issue involved in all these writ petitions is one and the same and therefore, all these matters are taken up together for final disposal by way of this common order.

2. The petitioners in these writ petitions, who are admittedly lease holders of the respondent Municipality, seek to quash the impugned notices, by which they were asked to pay the enhanced monthly rent, which was sought to be revised as per G.O.Ms.No.92 Municipal Administration and Water Supply Department dated 03.07.2007.

3. Heard the learned Senior counsel for the petitioners and the learned counsel for the respondent.

4. This Court, while dealing with the similar issue of enhancement of rent as per G.O.Ms.No.92 dated 03.07.2007, had considered all the aspects, given anxious consideration, perused the material documents and passed a detailed order in the case of **M.Muthusamy and others vs. The Commissioner, Palani Municipality, Palani, Dindigul District [W.P(MD)Nos.17966 to 17968 of 2017] decided on 21.09.2017**, which is extracted hereunder:

" 7. It is no doubt true and there is no second opinion that there is no automatic extension of lease and it cannot be renewed on its every expiry, but at the same time, it is to be remembered that any decision in respect of enhancement of rent should be only after following due process of law. In the given case on hand, the principles of *audi alteram partem*, has not been followed. Though the State is under obligation to secure the best market price available in a market economy, it should be fair and reasonable and revision should be only after proper notice / communication to the lease



holders and after receipt of their objections and the unexpected hike on one fine morning is unheard of under law, that too with retrospective effect.

8. It was also brought to the attention of this Court that the State has issued a circular dated 02.02.2009, by which suitable instructions have been issued to the authorities to give an opportunity to the tenants before the rent is finally fixed, based on which, a Hon'ble Division Bench of this Court has passed an order dated 06.02.2009 in the case of **Arulmigu Angala Parameswari and Kasivishwanathaswami Temple Adimanaiveal House Owners Association**, reported in **2009 (6) CTC 512**, vide which, the authorities were directed to fix or refix the lease rent in accordance with law after notice to the respective tenants.

9. In view of the foregoing discussions and also taking into account the proceedings issued by the State dated 02.02.2009, the following directions are issued in these writ petitions:

i) the respondent Municipality is directed to provide a copy of the report of the Committee as well as the calculation sheet to the petitioners forthwith, if not already given;

ii) This Court, normally while granting interim orders, would uniformly direct the petitioners / lease holders to deposit 50% of the enhanced rent immediately and in view of final disposal of all these writ petitions, the petitioners shall at the first instance, deposit 50% of the enhanced amount, if not already remitted and thereafter file their objections supported by whatever documents they have in their possession within a period of two weeks from the date of receipt of a copy of this order to the concerned authorities; and

iii) the authorities, upon satisfaction of the remittance of the 50% of the amount by the petitioners, on scrutiny of the documents produced by the petitioners and upon considering their objections, shall fix or refix the lease rent in accordance with law, within a period of two weeks thereafter."

5. Following the above judgment and also considering the fact the said judgment is squarely applicable to the facts of the present cases on hand, these writ petitions are disposed of with the following directions:



i) the respondent Municipality is directed to provide a copy of the report of the Committee as well as the calculation sheet to the petitioners forthwith, if not already given;

ii) This Court, normally while granting interim orders, would uniformly direct the petitioners / lease holders to deposit 50% of the enhanced rent immediately and in view of final disposal of all these writ petitions, the petitioners shall at the first instance, deposit 50% of the enhanced amount, if not already remitted and thereafter file their objections supported by whatever documents they have in their possession within a period of two weeks from the date of receipt of a copy of this order to the concerned authorities; and

iii) the authorities, upon satisfaction of the remittance of the 50% of the amount by the petitioners, on scrutiny of the documents produced by the petitioners and upon considering their objections, shall fix or re-fix the lease rent in accordance with law, within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To:

The Commissioner,
Karur Municipality,
Karur.

Ar

MAS/KP/SAR1:12.10.2017:5P-2C

W.P (MD) Nos.14214 to 14248,
14039 & 13588 of 2017
21.09.2017(1/37)