

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 21.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WEB COPY

W.P(MD) Nos.14266, 15254 to 15257, 15399, 15400, 14655 & 14656 of 2017 and**W.M.P. (MD) Nos.11180, 12071 to 12075, 12203 to 12205, 11479 & 11480 of 2017**

A.FRANCIS ... Petitioner(s) in WP(MD). 14266/ 2017
SHAN BEGUM ... Petitioner(s) in WP(MD). 15254/ 2017
K.INDIRA ... Petitioner(s) in WP(MD). 15255/ 2017
KARBO MICHAEL RAJ ... Petitioner(s) in WP(MD). 15256/ 2017
A.M.ALPHONSE ... Petitioner(s) in WP(MD). 15257/ 2017
S.P.RAJENDRAN ... Petitioner(s) in WP(MD). 15399/ 2017
S.MUTHU ... Petitioner(s) in WP(MD). 15400/ 2017

- Vs. -

1 THE DISTRICT COLLECTOR, SIVAGANGAI.

2 THE COMMISSIONER, KARAIKUDI MUNICIPALITY,
KARAIKUDI.

... Respondent(s) in WP(MD) Nos.14266/2017, 15254/2017,
15255/2017, 15256/2017, 15257/2017,
15399/2017 and 15400/2017

Common Prayer in WP(MD) Nos.14266/2017, 15254/2017, 15255/2017, 15256/2017, 15257/2017, 15399/2017 and 15400/2017:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari direction in the nature of writ calling for the records pertaining to the impugned order passed by 2nd respondent in Na.Ka.No.5236/2016/A1 dated 30.06.2017 and consequently order dated 24.07.2017 and quash the same as illegal respectively.

PANCHAVARNAM ... Petitioner(s) in WP(MD). 14655/ 2017
A.PRABAKARAN ... Petitioner(s) in WP(MD). 14656/ 2017

- Vs. -

THE COMMISSIONER, KARAIKUDI MUNICIPALITY,
KARAIKUDI, SIVAGANGAI DISTRICT.

... Respondent(s) in WP(MD) Nos.14655/2017 and 14656/2017

Common Prayer in WP(MD).14655/2017 and 14656/2017:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified mandamus directing the respondents to call for the records relating to the proceedings pursuant to the notice in Na.Ka.No.5236/2016/A1, dated 24.07.2017 of the respondent herein respect of petitioner shop premises, shop nos.2 and 2, subramani Tea Stall and S.R.Finance, Anna Market, Chekkalai road, Karaikudi, Sivagangai District and quash the same as illegal and Consequently direct the respondent to renew the lease in respect of shop nos.2 and 2, anna market, chekkalai raod, karaikudi, sivagangai district in favour of petitioners respectively.

W.P (MD) Nos.14655 & 14656/17

For Petitioners : Mr.S.Valmekanathan
For Respondent : Mr.P.Mahendran, Standing Counsel

In all other WPs

For Petitioners : Mrs.A.Srimathi
for Mr.D.Panneerselvam
For R-1 : Mr.J.Gunaseelan Muthiah,
Government Advocate
For R-2 : Mr.P.Mahendran, Standing Counsel

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 counsel for the petitioners and the learned counsel for the respondents.

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 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(Records)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector, Sivagangai.
2. The Commissioner,
Karaikudi Municipality, Karaikudi.

W.P(MD) Nos.14266, 15254 to 15257,
15399, 15400, 14655 & 14656 of 2017
21.09.2017

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SDS/MR:KKR/SAR 1/11.10.2017/4P/3C