



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2017

CORAM:

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) Nos.1805 to 1810, 1816 to 1821, 2654 to 2657, 3196 to 3199 and 6520 to 6523 of 2017 and W.M.P.(MD) Nos.1486 to 1491, 1496 to 1501, 2194 to 2197, 2548 to 2551 and 5108 to 5111 of 2017

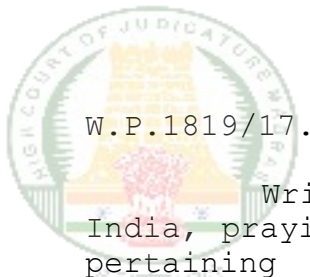
P.BASKAR	... Petitioner in WP(MD). 1805/ 2017
C.NATARAJAN	... Petitioner in WP(MD). 1806/ 2017
R.THANGARAJ	... Petitioner in WP(MD). 1807/ 2017
V.AMARIAPPA NADAR	... Petitioner in WP(MD). 1808/ 2017
A.P.AYYADURAI	... Petitioner in WP(MD). 1809/ 2017
RAJAMANICKAM	... Petitioner in WP(MD). 1810/ 2017
P.SRINIVASAN	... Petitioner in WP(MD). 1816/ 2017
S.PETER	... Petitioner in WP(MD). 1817/ 2017
P.ISRAVEL	... Petitioner in WP(MD). 1818/ 2017
PRINCE IMMANUVEL	... Petitioner in WP(MD). 1819/ 2017
R.CHURCHIL	... Petitioner in WP(MD). 1820/ 2017
K.SAMUVEL	... Petitioner in WP(MD). 1821/ 2017
S.KINGSLEY RAMESH	... Petitioner in WP(MD). 2654/ 2017
S.PETCHIMUTHU	... Petitioner in WP(MD). 2655/ 2017
K.GUNASUNDAR	... Petitioner in WP(MD). 2656/ 2017
K.GUNASUNDAR	... Petitioner in WP(MD). 2657/ 2017

-Vs-

THE COMMISSIONER AND SPECIAL OFFICER,
TUTICORIN MUNICIPAL CORPORATION, TUTICORIN. ...RESPONDENTS IN ALL W.Ps

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned notice in A16/2700/2016 dated 12.01.2017 of the respondent and quash the same and consequently direct the respondent to fix a fair rent along with regularization of my possession as per G.O.Ms.No.92 dated 03.07.2007 to Shop No.14 in W.P.1805/17, Shop No.12 in W.P.1809/17, Shop No.6 in W.P.1807/17 Shop No.4 in W.P.1817/17 Shop No.5 in W.P.1820/17 Shop No.9 in W.P.1821/17 Great Cotton Road Tuticorin.

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned notice in A16/2700/2016 dated 12.01.2017 on the file of the respondent and quash the same and consequently direct the respondent to fix a fair rent to Petitioner's licensed Shop No.3 Great Cotton Road, Tuticorin in W.P.1806/17, Shop No.1, Santhai Road in W.P.1808/17, Shop No.498-499 at V.E Road in W.P.1810/17, Shop No.13, Great Cotton Road in W.P.1816/17, Shop No.16, Great Cotton Road in W.P.1818/17 Shop No.8, Great Cotton Road in



W.P.1819/17.

Writ Petition is filed under Article 226 of the Constitution of India, praying to Writ of Certiorarified Mandamus calling for the records pertaining to the impugned notice in Na.Ka.No.A16/2700/2016 dated 12.01.2017 of the respondent and quash the same and consequently direct the respondent to fix a fair rent along with regularization of the petitioner's possession as per G.O.Ms.No.92 Municipal Administration and Water Supplies Department dated 03.07.2007 in W.P.2654 to 2657.

W.P.3196 to 3199/17

T.SIVA SOORIYAN	... Petitioner in WP(MD). 3196/ 2017
P.GURUVAMMAL	... Petitioner in WP(MD). 3198/ 2017
J.SARAVANA KUMAR	... Petitioner in WP(MD). 3197/ 2017
S.SINGAMANI	... Petitioner in WP(MD). 3199/ 2017

- Vs. -

1.THE STATE OF TAMIL NADU,
REP.BY ITS SECRETARY TO THE GOVERNMENT,
MUNICIPAL ADMINISTRATION AND WATER SUPPLY DEPARTMENT,
ST GEORGE FORT, CHENNAI - 600 009.

2.THE COMMISSIONER,
THOOTHUKUDI MUNICIPAL CORPORATION, THOOTHUKUDI.

... RESPONDENTS IN ALL W.Ps

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the proceedings of the 2nd respondent in Na.Ka.No. A16/2700/2016 dated 12.01.2017 and A16/2700/16 dated 13.02.2017 quash the same in W.Ps 3196 to 3199.

W.P.6520 to 6523/17:

K.ANBURAJ	...PETITIONER IN W.P.6520/17, W.P.6521/17,6522/17 & 6523/17
	-VS-

1.THE STATE OF TAMIL NADU,
REP.BY ITS SECRETARY TO THE GOVERNMENT,
MUNICIPAL ADMINISTRATION AND WATER SUPPLY DEPARTMENT,
FORT ST.GEORGE, CHENNAI - 600009.

2.THE COMMISSIONER, THOOTHUKUDI MUNICIPAL CORPORATION,
THOOTHUKUDI. ...RESPONDENTS IN ALL W.Ps

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a writ of certiorari to call for the proceedings of the 2nd respondent in A16/2700/16 dated 09.02.2017 and 30.03.2017 with respect to shop No.20 in W.P.6520/17 and Shop No.57 in W.P.6521/17 and Shop No.59 in W.P No.6523/17, New Bus Stand Thoothukudi and quash the same.

W.P(MD)No.6522/2017:

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue w Writ of Certiorari directing the nature of Writ to call for the Proceedings of the 2nd Respondent in A16/2700/17 dated 28.2.17 and 31.03.2017 with respect to Shop No.58, New Bus Stand



Thoothukudi, quash the same in W.P.6522/17.

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For all Petitioners : Mr.S.Muthalraj
(in W.P.(MD) Nos.1805 to 1810 & 1816 to 1821/2017)
Mr.G.Sridharan
(in W.P.(MD) Nos.2654 to 2657/2017)
Mr.P.Pethu Rajesh
(in W.P.(MD) Nos.3196 to 3199, 6520 to 6523/2017)

For Respondents : Mr.S.Saji Bino
(for sole respondent in W.P.(MD) Nos.1805 to 1810 & 1816 to 1821 & 2654 to 2657/2017
and for R2 in W.P.(MD) Nos.3196 to 3199 and 6520 to 6523/2017)
Mr.S.Kumar,
Addl. Govt. Pleader
(for R1 in W.P.(MD) Nos.3196 to 3199 and 6520 to 6523/2017)

COMMON ORDER

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 Corporation, 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, the learned Additional Government Pleader and the learned counsel for the Corporation.

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

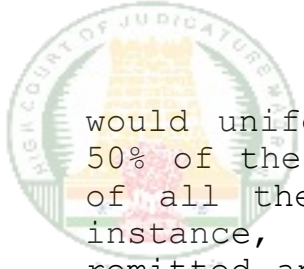
iii) the authorities, upon satisfaction of the remittance of the 50% of the amount by the petitioners, on scrutiny of the documents produced by the petitioners and upon considering their objections, shall fix or refix the lease rent in accordance with law, within a period of two weeks thereafter."

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 Corporation 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;

<https://hcservices.ecourts.gov.in/hcservices/>

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:

1. The Commissioner and Special Officer,
Tuticorin Municipal Corporation,
Tuticorin.

2. The Secretary to the Government of Tamil Nadu,
Municipal Administration and Water supply Department,
Chennai - 600 009.

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JS/JC/SAR.1/12.10.2017/5P-3C

**W.P(MD) Nos.1805 to 1810, 1816 to 1821,
2654 to 2657, 3196 to 3199 and 6520 to 6523 of 2017
21.09.2017**