



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2017

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CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) Nos.18207 to 18216, 18219 and 18220 of 2017
and

W.M.P. (MD) Nos.14651 to 14660 and 14661 to 14664 of 2017

W.P. (MD) No.18207 of 2017

P.S.Abdul Khadar ... Petitioner
in W.P.(MD) Nos.18207 to
18211,18213,18214 of 2017

M.Sheik Abdulla ... Petitioner
in W.P.(MD) Nos.18212
and 18215 of 2017

I.Shahul Hameed ... Petitioner
in W.P.(MD)No.18216 of 2017

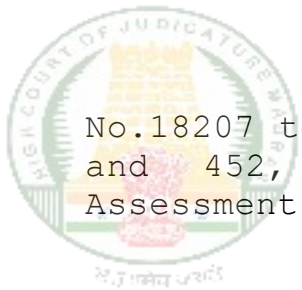
C.Chinnu @ Chinnaveeran ... Petitioner
in W.P(MD)Nos.18219 of 2017
and 18220 of 2017

-vs-

The Commissioner,
Madurai Municipal Corporation,
Madurai. ...Respondent in W.P.(MD)Nos.18207
to 18216 of 2017

The Commissioner,
Madurai Corporation,
Madurai. ... Respondent in W.P.(MD)Nos.18219
and 18220 of 2017

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, calling for the order dated Nil refixing and enhancing the rent of the petitioner's Shops Nos.1 to 3 and Door Nos.4, 5, 227, 228, 229, 230 and 231 Aattu Manthai Fish Market, Nellupettai, Madurai and quash the same and consequently direct the respondent to refix the rent on the basis of G.O.Ms.92 of Municipal Administration and Water Supply dated 03.07.2007 (WP(MD))



No.18207 to 18216 of 2017) respectively and vegetable shop Nos.250 and 452, Mattuthavani Central Vegetable Market Madurai, Assessment No.6730016 respectively and quash the same as illegal.

For all Petitioners : Mr.C.Jeganathan
for M/s.Veera Associates
(in W.P.(MD) Nos.18207 to 18216/2017)
Mr.R.Satish
(in W.P.(MD) Nos.18219 & 18220/2017)

For Respondent : Mr.T.S.Mohamed Mohideen
(in W.P.(MD) Nos.18207 to 18211/2017)
Mr.N.Shanmugaselvam
(in W.P.(MD) Nos.18212 to 18216/2017)
Mr.J.Gunaseelan Muthiah
(in W.P.(MD) Nos.18219 & 18220/2017)

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 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 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:

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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;

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(CO)

/True Copy/

Sub Assistant Registrar

To:

The Commissioner,
Madurai Municipal Corporation,
Madurai.

+1cc to Mr.J.Gunaseelan Muthiah, Advocate Sr.No.80745
+10cc to M/s.Veera Associates, Sr.No.80545 to 80554
+6cc to Mr.T.S.Mohamed Mohideen, Advocate Sr.No.80788 to 80793

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VB/SV/MMS/SAR2/12/10/2017/4P/19

W.P(MD) Nos.18207 to 18216, 18219 and 18220 of 2017