



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2017

CORAM:

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.19553 of 2017

and

WMP(MD)No.15843 of 2017

V.Selvaraj

... Petitioner

-vs-

The Commissioner,
Madurai Municipal Corporation,
Madurai.

... Respondent

Petition is filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records pursuant to the impugned order issued by the respondent in No.NIL dated NIL refixing and enhancing the rent of the petitioner's shop at Door No.343 at Therku Vasal Market, Madurai and quash the same and consequently direct the Respondent to fix the rent on the basis of G.O.Ms.No.92 Municipal Administration and Water Supply Department dated 03.07.2007.

For Petitioner : Mr.M.Jegadeesan

For Respondent : Mr.N.Shanmugaselvan

O R D E R

The petitioner, who is admittedly a lease holder of the respondent Municipality, seeks to quash the impugned notice, by which, he was 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.

2.Heard the learned counsel for the petitioner and the learned counsel for the respondent. By consent, the writ petition itself is taken up for final disposal at the stage of admission.

3.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

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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 re-fix the lease rent in accordance with law, within a period of two weeks thereafter."

4. Following the above judgment and also considering the fact that the said judgment is squarely applicable to the facts of the present case on hand, this writ petition is 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 petitioner forthwith, if not already given;

ii) This Court, normally while granting interim orders, would uniformly direct the petitioner / lease holder to deposit 50% of the enhanced rent immediately and in view of final disposal of the writ petition, the petitioner shall at the first instance, deposit 50% of the enhanced amount, if not already remitted and thereafter file his objections supported by whatever documents he has in his 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 petitioner, on scrutiny of the documents produced by the petitioner and upon considering his objections, shall fix or re-fix the lease rent in accordance with law, within a period of two weeks thereafter. No costs. Consequently, WMP(MD)No.15843 of 2017 is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To:
The Commissioner ,
Madurai Municipal Corporation,
Madurai.

+ 1 cc TO Mr.N.Shanmugaselvan , Advocate in SR No. 83389
+ 1 cc TO Mr.M.Jegadeesan, Advocate in SR No. 83287

mj
AE/MR KKR/SAR1/02.11.2017/3P/4C

W.P(MD) No.19553 of 2017
24.10.2017