



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.19616 of 2017 and

W.M.P.(MD)No.15895 of 2017

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Benazia Begam

... Petitioner

-vs-

The Commissioner,
Palani Municipality,
Palani, Dindigul District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorararified Mandamus, calling for the records pertaining to the impugned order passed by the respondent in his proceedings in Na.Ka.No. 1626/2016/A1 dated 31.08.2017 and quash the same as illegal and consequently directing the respondent to renew the lease in respect of the petitioners shop No.13, Sannathi Road, Adivaram, Palani, Dindigul District.

For all petitioners : Mr.T.Lenin Kumar

For Respondent : Mr.G.Arjunan

O R D E R

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

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 M.Muthusamy and others vs. The Commissioner, Palani Municipality, Palani, Dindigul District [W.P(MD)Nos.17966 to 17968 of 2017] decided on 25.10.2017, 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.

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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."

4. Following the above judgment and also considering 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 this writ petition, the petitioner shall at the first instance, deposit 50% of the enhanced amount, if not already remitted and thereafter file her objections supported by whatever documents she has in her 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 her 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 petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Commissioner,
Palani Municipality,
Palani, Dindigul District.

+1cc to M/S.G.Arujunan, Advocate SR.No. 83650
+1cc to M/S.T.Lenin Kumar, Advocate SR.No. 83722

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JM/RSK/SAR 1/01.11.2017/3P/4C