



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 30.10.2017

CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN**

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W.P(MD) Nos.19928 to 19931 of 2017 and  
W.M.P.(MD) Nos.16201 to 16208 of 2017

|                |                                      |
|----------------|--------------------------------------|
| R.Kannan       | ... Petitioner in W.P(MD)No.19928/17 |
| M.S.Jamaludeen | ... Petitioner in W.P(MD)No.19929/17 |
| K.Murugan      | ... Petitioner in W.P(MD)No.19930/17 |
| Prabhakaran    | ... Petitioner in W.P(MD)No.19931/17 |

-vs-

- 1.The Secretary to Government,  
Municipal Administration and Water Supply Department,  
Government of Tamil Nadu,  
Fort George, Chennai.
- 2.The Commissioner,  
Devakottai Municipality,  
Devakottai,  
Sivagangai District. ... Respondents in all petitions

**COMMON PRAYER:** Writ Petitions are filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings in Na.Ka.No. 1896/2010/A1 dated 16.08.2017 of the 2nd respondent and to quash the same as illegal and consequently direct the 2nd respondent to raise the rent to 15% for the Bus Stand South Sector Shop Nos. 6, 3, 7 and 5, respectively, situated at Devakottai Bus Stand, Devakottai Town, Sivagangai District as per the guidelines laid down in G.O.(Ms). No. 92 dated 03.07.2007 of the 1st respondent.

|                 |                                                                                                            |
|-----------------|------------------------------------------------------------------------------------------------------------|
| For Petitioners | : Mr.A.Rajini                                                                                              |
| For Respondents | : Mr.J.Gunaseelan Muthiah,<br>Government Advocate for R.1<br>Mr.H.Mohammed Imran for R.2<br>(In all cases) |

**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. By consent, these writ petitions are taken for final disposal at the stage of admission itself.

3. Mr.J.Gunaseelan Muthiah, learned Government Advocate takes notice for the first respondent and Mr.H.Mohammed Imran, learned Counsel takes notice for the second respondent.

4. The petitioners in these writ petitions, who are admittedly lease holders of the second 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.

5. 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 30.10.2017, 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.

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."

6. Following the above order 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 second 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)

WEB COPY

/True copy/

Sub Assistant Registrar

To:

1.The Secretary to Government,  
Municipal Administration and Water Supply Department,  
Government of Tamil Nadu,  
Fort George, Chennai.

2.The Commissioner,  
Devakottai Municipality,  
Devakottai,  
Sivagangai District.

+4cc to Mr.A.RAJINI,Advocate,SR. 84186,84187,84188,84189

+1cc to Mr.B.ANANDHAN,Advocate,SR.84509

+1cc to M/S.Special Government Pleader,SR.84371

W.P(MD) Nos.19928 to 19931 of 2017  
30.10.2017

GK

KK/SKN RSK/SAR 1/09.11.2017/ 4P- 9C/