



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.22076 of 2017

and

W.M.P. (MD) No.18397 of 2017

A.Abdulmunab

... Petitioner

-vs-

The Commissioner,
Paramakudi Municipality,
Paramakudi,
Ramanathapuram District.

... Respondent

PRAYER: 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 relating to the impugned notice dated 05.10.2017 in Na.Ka.No.1835/2017/C2 issued by the respondent and quash the same. Consequently, direct the respondent to allow the petitioner to continue the Shop No.11, situated in inside Anna Bus Stand, Paramakudi, Ramanathapuram.

For Petitioner : Mr.M.Subash Babu
For Respondent : Mr.M.Kannan

O R D E R

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

2. Mr.M.Kannan, learned Standing Counsel takes notice for the respondent.

3. The petitioner, who is admittedly the 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.

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 Mer.Mesthouson/ncs services/ others vs. The Commissioner, Palani Municipality, Palani, Dindigul District [W.P(MD)Nos.17966 to 17968 of 2017] decided on 27.11.2017, 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 order 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 objection supported by whatever documents 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 objection, shall fix or refix 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(CO)

/True Copy/

Sub Assistant Registrar

To:

The Commissioner,
Paramakudi Municipality,
Paramakudi,
Ramanathapuram District.

+1cc to M/S.M.Subash Babu, Advocate SR.No. 90757

W.P(MD) No.22076 of 2017
30.11.2017

RM

JM/JC/SAR 4/14.12.2017/3P/3C