



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2017

CORAM:

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

*W.P(MD) Nos.22640, 22642 & 22643 of 2017 and
W.M.P. (MD) Nos.18939, 18941 & 18942 of 2017*

K.Kalanithi	... Petitioner in W.P(MD)No.22640/17
Salim Badhusha	... Petitioner in W.P(MD)No.22642/17
Jahir Hussian	... Petitioner in W.P(MD)No.22643/17

-vs-

- 1.The Secretary,
Government of Tamil Nadu,
Department of Municipal Administration and Water Services,
St.George Fort, Chennai.
 - 2.The Commissioner for Municipal Administration,
Chennai.
 - 3.The Regional Director of Municipal Administration,
Tirunelveli Region,
Tirunelveli.
 - 4.The Special Officer /
Virudhunagar Municipal Council,
Virudhunagar Municipality,
Virudhunagar.
 - 5.The Commissioner,
Virudhunagar Municipality,
Virudhunagar.
- ... 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 communication of the fifth respondent in Na.Ka.No.7825/2015/A1 dated 22.05.2017 and quash the same and forbear the 5th respondent from revising the rent until the expiry of lease period of 3 years i.e., till 31.03.2019, 30.06.2019, respectively.

For Petitioners : Mr.G.Mariappan

For Respondents : Mr.M.Alagathevan,
Special Government Pleader
(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.M.Alagathevan, learned Special Government Pleader takes notice for the respondents in all the cases.

4. The petitioners in these writ petitions, who are admittedly lease holders of the fifth 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 11.12.2017, 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."

5. 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 fifth 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.

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/True Copy/

Sd/-

Assistant Registrar (W)

Sub-Assistant Registrar

To:

1. The Secretary,
Government of Tamil Nadu,
Department of Municipal Administration and Water Services,
St. George Fort, Chennai.
2. The Commissioner for Municipal Administration,
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Virudhunagar Municipality,
Virudhunagar.
5. The Commissioner,
Virudhunagar Municipality,
Virudhunagar.

+3 ccs to Mr. G. Mariappan, Advocate, SR.Nos. 92040, 92042 and 92043

gk

RL/9C/4P/JC/SAR1/22/12/2017

W.P (MD) Nos. 22640, 22642 & 22643 of 2017

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