



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2017

CORAM:

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P(MD) Nos.23663, 23664, 23073 to 23076 &
23290 to 23293 of 2017

and

W.M.P.(MD) Nos.19880, 19881, 19383 to 19386 &
19574 to 19577 of 2017

MOHAMMED EASA	... PETITIONER IN WP(MD)No.23663/2017
S.R.DINAKARANBOSE	... PETITIONER IN WP(MD)No.23664/2017
MOHAMED YUSUF	... PETITIONER IN WP(MD)No.23073/2017
SYED ABUTHAHIR ALI	... PETITIONER IN WP(MD)No.23074/2017
THAMIMUN ANSARI	... PETITIONER IN WP(MD)No.23075/2017
HAROON RAZEED	... PETITIONER IN WP(MD)No.23076/2017
MUNIRAJPANDIAN	... PETITIONER IN WP(MD)No.23290/2017
MOHAMMED ALI	... PETITIONER IN WP(MD)No.23291/2017
MOHAMED YASAR SIKKANDAR	
ARAFATH	... PETITIONER IN WP(MD)No.23292/2017
N.PERIYASAMY	... PETITIONER IN WP(MD)No.23293/2017

-Vs-

1. THE SECRETARY,
GOVERNMENT OF TAMIL NADU,
DEPARTMENT OF MUNICIPAL ADMINISTRATION AND WATER SUPPLY,
ST.GEORGE FORT, CHENNAI.
2. THE COMMISSIONER OF 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 THE PETITIONS

Prayer in WP(MD)Nos.23663 and 23664 of 2017 :

Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified mandamus to call for the entire records pertaining to the impugned communication of the 5th respondent in Na.Ka.No.7825/2015/A1 dated 22.05.2017 for Shop Nos.16, 2, Burma Bank, Pullakottai Road, and Municipal Water Tank Complex, virudhunagar respectively and quash the same as illegal and consequently forbear the 5th respondent from revising the rent until the expiry of lease period of 3 years i.e. till 31.03.2019.

Prayer in WP(MD)Nos.23073 to 23076 of 2017 :

Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the entire records pertaining to the impugned communication of the 5th respondent in Na.Ka.No.7825/2015/A1 dated 22.05.2017 and quash the same as illegal and consequently forbear the 5th respondent from revising the rent until the expiry of lease period of 3 years i.e. till 30.04.2019, 31.03.2019 respectively.

Prayer in WP(MD)No.23290/2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus to call for the entire records pertaining to the impugned communication of the 5th respondent in Na.Ka.No.7825/2015/A1 dated 22.05.2017 for shop No.2, Santhu Bazaar, Main Bazaar, Virudhunagar and quash the same as illegal and consequently forbear the 5th respondent from revising the rent until the expiry of lease period of 3 years i.e. till 31.03.2019.

Prayer in WP(MD)No.23291/2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ, order or direction particularly in the nature of writ of Certiorarified mandamus to call for the entire records pertaining to the impugned communication of the 5th respondent in Na.Ka.no.7825/2015/ 1 dated 22/05/2017 for shop no.18 Burma bunk, pullakottai Road, v.nagar and quash the same as illegal and consequently forbear the 5th respondent from revising the rent until the expiry of lease period of 3 years i.e. till 31/03/2019.

Prayer in WP(MD)Nos.23292 and 23293 of 2017 :

Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the entire records pertaining to the impugned communication of the 5th respondent in Na.Ka.No.7825/2015/A1 dated 22.05.2017 for shop No.4 and 40 MSP Raja Market, Municipal Complex, Katcheri Road, IUDP Shop, Virudhunagar respectively and quash the same as illegal and consequently forbear the 5th respondent from revising the rent until the expiry of lease period of 3 years i.e. till 31.03.2019.



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For Petitioners : Mr.G.Mariappan (in all the petitions)
For Respondents : Mr.T.S.Mohamed Mohideen, - R1 to R4
Additional Government Pleader
(in all cases)
: Mr.M.Muthu Geethaiyan, - R5
(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.T.S.Mohamed Mohideen, learned Additional Government Pleader takes notice for the respondents 1 to 4 and Mr.M.Muthu Geethaiyan, learned Counsel takes notice for the fifth respondent 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 refix 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 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, within a period of two weeks from the date of receipt of a copy of this order and thereafter file their objections supported by

whatever documents they have in their possession 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.

iv) in the event of the petitioners not complying with the conditions stipulated above, it is open to the concerned authorities, to proceed further in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To:

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

+ 10 CC TO Mr.G.MARIAPPAN, ADVOCATE IN SR Nos. 94274 to 94283
+ 3 CC TO Mr.M.MUTHUGEETHAIYAN, ADVOCATE IN SR No. 94244 TO 94246

RM

TE/MR/SAR-1 : 08/01/2018 : 5P/19C

W.P (MD) Nos.23663, 23664,23073 to 23076 &
23290 to 23293 of 2017 and

W.M.P. (MD) Nos.19880, 19881, 19383 to 19386 &
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