

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.Nos.6057 to 6059 of 2017
and W.M.P.No.6494 to 6496 of 2017

1. K.C.MurugasamyPetitioner in W.P.No.6057 of 2017
2. S.RavichandranPetitioner in W.P.No.6058 of 2017
3. S.RavichandranPetitioner in W.P.No.6059 of 2017

Vs

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George,
Chennai-600 009.
2. The Commissioner,
Gobichettipalayam Municipality, Gobichettipalayam,
Erode District.
3. The Chairman,
Gobichettipalayam Municipality, Gobichettipalayam,
Erode District. .. Respondents in all the writ petitions

Prayer : These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for records with respect of impugned proceedings of the 2nd respondent herein dated 11.11.2016 in NA.Ka.No.4700/2015/A3 and quash the same, consequently direct the 2nd respondent to accept the rent for the shop No.5(IUDP), shop No.3(IUDP) and shop No.2(IUDP) New Bus Stand, Gobichettipalayam as per the resolution No.501 passed by the 3rd respondent dated 27.05.2016.

For Petitioners : Mr.R.Nalliyappan
(All the writ petitions)
For Respondents : Mr.V.Shunmugasundar
(All the writ petitions) Special Government Pleader

C O M M O N O R D E R

These writ petitions have been filed challenging the fixation of licence fee by the respondents.

2. According to the petitioners, they are licensees of the shops owned by the respondent Corporation / Municipality. The grievance of the petitioners is that the respondents have increased the rent in manifolds, without any basis and also without providing them an opportunity of hearing.

3. Heard the learned counsel for the petitioners and the learned counsel for the respondents and perused the materials on record.

4. The licensees of shops in Rajapalayam Municipality filed a batch of writ petitions before Madurai Bench of Madras High Court, in W.P.(MD)Nos.9333 of 2017, etc., expressing the same grievance. The Writ Court, following the decisions of Single Judges and Division Bench of this Court A.Sathar Vs. the District Collector, Coimbatore and Another [AIR 1998 MAD 217], WA (MD) No.546 of 2010, dated 19.08.2010, P.N.Chinnasamy and 13 another vs. the Assistant Director of Town Panchyat, Coimbatore District [2010 1 CTC 584], P.Muthusamy vs. State of Tamil Nadu [2014 5 MLJ 129], C.Vinoba vs. the Commissioner, Palladam Municipality [2015 3 CTC 170] and P.P.M.S.C.L.W.Association vs. Commissioner [2016 3 MLJ 698] dismissed the writ petitions holding the licensees by relying on the G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007 have no right in seeking extension of lease in perpetuation and the provisions of the Tamil Nadu Buildings (Lease and and Rent Control) Act as amended, have no application in fixation of lincence fee.

5. The judgment was confirmed by the Division Bench in W.A.(MD)Nos.1058 to 1086 of 2017 by observing that licensees have no say in the fixation of rent and the rent fixed by the fee fixation committee forms part of an offer and it is for the licensees to accept or leave it.

6. In the considered opinion of this Court, the judgment referred supra would squarely apply to the case on hand. It is up to the petitioners to accept the offer given by the respondent, within a period of one month and shall pay arrears, if any, within a period of two months. In case the petitioners do not give consent for the payment of the enhanced amount within one month, the respondents are directed to take action for

public auction forthwith. This Court holds that once the auction notification is published, the petitioners are deemed to have vacated the tenement and the respondents can enter the place with the help of police force, if required.

7. With the above observations and directions, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpl

To

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George,
Chennai-600 009.
2. The Commissioner,
Gobichettipalayam Municipality, Gobichettipalayam,
Erode District.
3. The Chairman,
Gobichettipalayam Municipality, Gobichettipalayam,
Erode District.

+1cc to Mr.R.Nalliyappan, Advocate, S.R.No.4445
+1cc to the Government Pleader, S.R.No.4559

WP.Nos.6057 to 6059 of 2017

EV(CO)
RRK(28/02/2018)

WEB COPY