

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.Nos.1037 to 1042 of 2018, 12818 to 12822 of 2017, 12835 to 12839 of 2017, 12883 to 12886 of 2017 and 12939 and 12940 of 2017 and

WMP.Nos.1255 to 1260 of 2018, 13673 to 13678 of 2017, 13687 to 13691 of 2017, 13739 to 13743 of 2017, 13810 and 13811 of 2017

T.Parthipan ..Petitioner in W.P.No.1037/2018
N.A.Baskaran ..Petitioner in W.P.No.1038/2018
K. Balachandar ..Petitioner in W.P.No.1039/2018
N. Arumugam ..Petitioner in W.P.No.1040/2018
K. Sumathi ..Petitioner in W.P.No.1041/2018
R. Vasu ..Petitioner in W.P.No.1042/2018
K. Kumaravel ..Petitioner in W.P.No.12818/2017
D. Jesudoss Chandrasekar ..Petitioner in W.P.No.12819/2017
P.K. Aziz ..Petitioner in W.P.No.12820/2017
T.V. Chezian ..Petitioner in W.P.No.12821/2017
V. Raghu ..Petitioner in W.P.No.12822/2017
A. Vishnu Vardhan Gupta ..Petitioner in W.P.No.12835/2017
R. Selvarani ..Petitioner in W.P.No.12836/2017
G. Balasubramani ..Petitioner in W.P.No.12837/2017
G. Manikandan ..Petitioner in W.P.No.12838/2017
S.P.Abdul Azeez ..Petitioner in W.P.No.12839/2017
A. Vinothkumar ..Petitioner in W.P.No.12883/2017
S. Venkatesan ..Petitioner in W.P.No.12884/2017
C.Sridhar ..Petitioner in W.P.No.12885/2017
J. Sivakumar ..Petitioner in W.P.No.12886/2017
V. Raghu ..Petitioner in W.P.No.12939/2017
V. Raghu ..Petitioner in W.P.No.12940/2017

Vs.

1. The Government of Tamil Nadu
Rep. By its Secretary
Municipal Administration
and Water Supply Department,
Fort St. George, Chennai - 600 009. ..R1 in all WPs.
2. The Director of Municipal Administration
Municipal Administration Department
Eazhilagam, Chepauk
Chennai - 600 005.

3. The Regional Director of Municipal
Administration
Sarathi Nagar
Kakithapattarai
Vellore - 12.

4. The District Collector
Vellore District.
Vellore.

5. The Commissioner
Ranipet Municipality
Vellore District,
Vellore.

..Respondents 2 to 5 in W.P.No.1037
to 1042/18 of 2018

The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai-3. ...R2 in WPs. 12818 to 12822/17,
12835 to 12839, 12883 to 12886,
12939 & 12940/17

The Assistant Revenue Officer,
Zonal Office-I, Creater Chennai,
Corporation NO.945,
Thiruvottiyur High Court,
Tiruvottiyur, Chennai-19. ...R3 in WPs.12818 to 12822, 12835,
to 12839, 12883 to 12886, 12939 &
12940/17

Prayer in W.P.No. Writ petition filed under Article 226 of the
Constitution of India praying for issuance of Writ of Certiorari
to call for the records of the 5th respondent made in
Na.Ka.No.3807/2016/A3 dated 03.03.2017, 29.5.17, 29.5.17,
3.3.17, 29.5.17 and 29.5.2017 respectively and quash the same
(in WPs.1037 to 1042/18)

Calling for the records pertaining to the impugned notice
issued by the third respondent in
Ma.Aa.1/Va.Thu.Na.Ka.No.R1/00205/17, dt.15.03.17 in respect of
Shop Nos.4,26,2,18,3,6,20,8,1,11,22,9,10,2,3&19 at Hospital
Commercial Complex at No.185, Thiruvottiyur High Road,
Thiruvottiyur, Chennai 600 019 and to quash the same. (in
WPs.12818 to 12822, 12835 to 12839, 12883 to 12886, 12939 &
12940/17).

: Mr.M. Murali (in WPs.12818 to 12822, 12835 to
12839, 12939, 12940 & 12883 to 12840/17)

For Petitioner:Mr.J.Arul Prakasam
(in W.P.No.1037 of 2018 to 1042/18)

For Respondents: Mr.V.Shunmugasundar
(in W.P.No.1037 of 2018) Special Government Pleader
(for RR1 to 4 in WPs.1037 to
1042/18)

R1(in WPs.12818 to 12822, 12835 to
12839, 12939, & 12940 & 12883 to
12886/17)

: Mr.T.C. Gopalakrishnan-RR 2&3 (in
WPs.12818 to 12822, 12835 to 12839,
12939, 12940 & 12883 to 12886/17)

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. As the facts are same in these batch of writ petitions, they are disposed of by this common order.

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(CS-IV)

* Corrected as per order dated 06.04.2018 made in W.P.Nos.1037 to 1042/2018, 12818 to 12822/2017, 12835 to 12839/2017, 12883 to 12886/2017 and 12939 & 12940/2017.
sd/- Assistant Registrar(CS IV)
Dated: 04.05.2018.

//True Copy//

Sub Assistant Registrar

pvs
To

1. The Secretary to Government
Municipal Administration
and Water Supply Department,
Fort St. George, Chennai - 600 009.

2. The Director of Municipal Administration
Municipal Administration Department
Eazhilagam, Chepauk
Chennai - 600 005.

To be substituted
order already
despatched on
03.04.2018.

3. The Regional Director of Municipal
Administration
Sarathi Nagar
Kakithapattarai
Vellore - 12.

4. The District Collector
Vellore District.
Vellore.

5. The Commissioner
Ranipet Municipality
Vellore District,
Vellore.

6. The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai-3.

7. The Assistant Revenue Officer,
Zonal Office-I, Greater Chennai,
Corporation NO.945,
Thiruvottiyur High Court,
Tiruvottiyur, Chennai-19.

+ 15 ccs to M/s. T.C. Gopalakrishnan, Advocate Sr.3880 to 3895,
25426)

+ 4 ccs to Government Pleader Sr.4592 & 4598, 4591, & 4588)

+ 6 ccs to Mr.J.Arul Prakasam, Advocate.3572

+ 1 cc to M/s. T.C. Gopalakrishnan, Advocate Sr.3880 (3.4.18)

WP.No.1037 of 2018 etc.

RV(CO)
EU(04/05/2018)
SP(04/05/2018)

सत्यमेव जयते

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