

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2018

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.384 of 2018

and

W.M.P.Nos.436, 437 and 494 of 2018

- 1.J.Jayanthi
- 2.S.B.Abdul Malik Sahib
- 3.A.Baskar
- 4.S.Senthil Nathan
- 5.M.Palani
- 6.A.L.Shabeer
- 7.K.Kumar
- 8.A.B.Kamal Badsha
- 9.M.Raja
- 10.A.Ramesh
- 11.A.Anandan
- 12.M.Kasi
- 13.A.Aslam Basha
- 14.N.Aslam
- 15.K.Palani
- 16.H.Babu
- 17.B.Lakshmi Ammal
- 18.G.Venkatesan
- 19.K.Wakith Basha

...Petitioners

Versus

- 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,
Ezhilagam, Chempauk,
Chennai - 600 005.
- 3.The Regional Director of Municipal Administration,
Sarathi Nagar, Kakithaipatturai,
Vellore - 12.
- 4.The District Collector,
Thiruvannamalai District,
Thiruvannamalai.

5.The Commissioner,
Arani Municipality,
Thiruvannamalai District,
Thiruvannamalai.

.. Respondents

Prayer :

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, calling for the records relating to the Impugned Notices Na.Ka.No.1408/2016/A3 dated 03.03.2017 and 26.4.2017 in respect of the petitioners Shop No's 18 and 6 in Old Market shops, Shop No.185 in New Market Shops, Shop No.31 in Old Market Shops, Shop No.8 in Thai Sei Nala Veduthi Kadai, Shop No's:1, 2 & 4 and 3 in New Market Shops, Shop No.6 at Bharathiyar Street, Shop No's: 9, 32 and 33 in New Market Shops, Shop No.2 in Stair Case shop in the Market, Shop No's: 36, 38, 52, 55, 56, 95 & 96 and 101 & 102 in New Market Shops i.e., totally 23 shops situated at Arani, on the file of the 5th respondent and quash the same.

For Petitioners : Mr.V.Karunakaran
for M/s.Kamachi D

For Respondents : Mr.Shanmugasundar
Special Government Pleader

O R D E R

This writ petition has been filed challenging the fixation of licence fee by the fifth respondent.

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 said 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 respondents, 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, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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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,
Ezhilagam, Chepauk,
Chennai - 600 005.

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

4.The District Collector,
Thiruvannamalai District,
Thiruvannamalai.

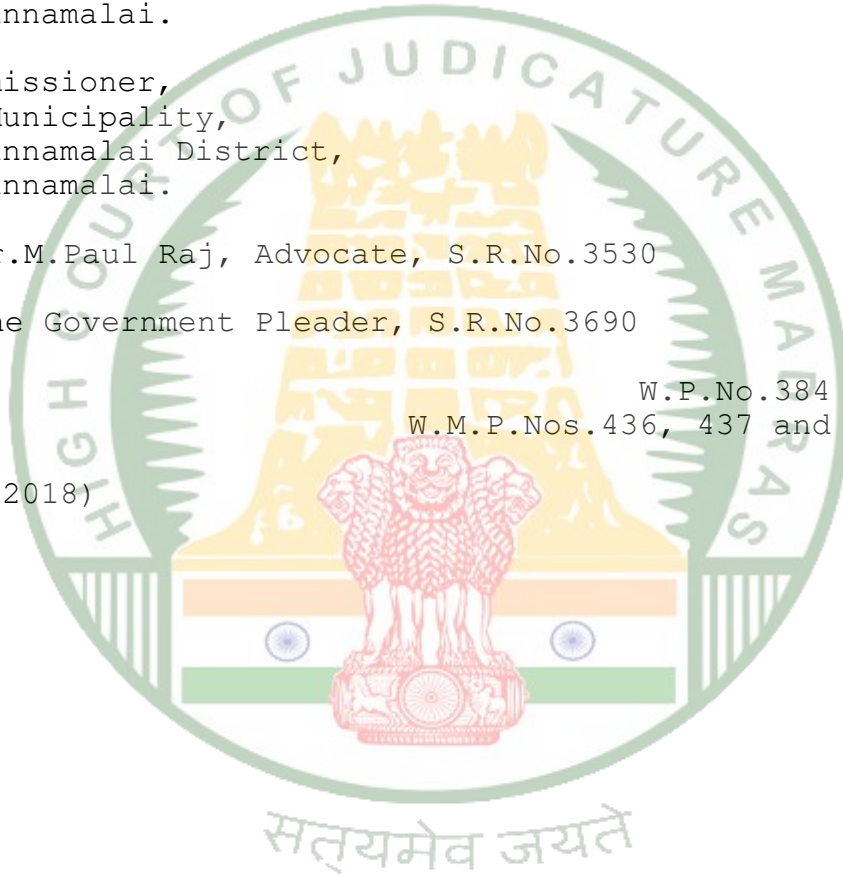
5.The Commissioner,
Arani Municipality,
Thiruvannamalai District,
Thiruvannamalai.

+1cc to Mr.M.Paul Raj, Advocate, S.R.No.3530

+1cc to the Government Pleader, S.R.No.3690

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RRK (26/02/2018)



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