

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.09.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.11643 of 2017 and
W.M.P.No.12660 OF 2017

N.Nithyadasan

.. Petitioner

vs

1. The State of Tamil Nadu,
Rep.by its Secretary to Government
Municipal Administration &
Water Supply Department,
Fort, St.George,
Chennai.

2. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600 003.

3. The Assistant Revenue Officer,
Zonal Office - 1,
Greater Chennai Corporation,
No.945, Tiruvottiyur High Road,
Tiruvottiyur,
Chennai - 600 019

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari in the nature of a writ, calling for records pertaining to the impugned notice issued by the third respondent in Ma.Aa.1/Va.Thu.Na.Ka.No.R1/00205/2017 dated 15.03.2017 in respect of Shop No.4 at Dr.Ambedkar Commercial Complex at No.936, Tiruvottiyur High Road, Tiruvottiyur, Chennai-600 019 and quash the same.

For Petitioner : Mr.M.Murali

For Respondents : Mr.A.Ansar
Government Advocate for R1

Mr.K.Soundara Rajan for R2 & R3

O R D E R

Enhancement of monthly rent in respect of commercial premises which belongs to the Corporation is under challenge in this writ petition.

2. The writ petitioner is a tenant and under the occupation of commercial premises rented out by Corporation of Chennai. The grievances of the writ petitioner are that original rent was fixed as Rs.12,000/- per month and the same is subsequently enhanced to Rs.44,000/-. Thus, the enhancement of rent is unbearable and causing hardship to the writ petitioner.

3. The learned counsel appearing on behalf of the writ petitioner states that the commercial premises under his occupation is not situated within the prime locality and therefore, the enhancement of rent to Rs.44,000/- is unreasonable and not in commensurate with the market rent prevailing in and around Tiruvottiyur locality. This apart, the learned counsel for the petitioner states that, he is willing to re-adjudicate the matter before the competent authority in respect of the enhancement of monthly rent.

4. The Learned counsel appearing for the respondents states that the writ petitioner is a tenant. Enhancement of rent has been done by the competent authorities of the Corporation of the Chennai, taking into consideration the prevailing market rent in the locality. Thus, there is no infirmity or irregularity in respect of the enhancement of rent effected in respect of the said premises. In fact, the other tenants, who all are in same commercial complex are paying the enhanced rent to the Corporation of Chennai. When the other tenants, who are in occupation of the premises in the same complex, are paying the enhanced rent, there is no reason for the writ petitioner to deny the enhanced rent. This apart, the arrears of rent to be paid to the Corporation of Chennai, is a sum of Rs.9,34,200/-.

5. Further, the Learned counsel for the respondents states that in respect of the very same area, more specifically, Zonal Office-I, Greater Chennai Corporation, Tiruvottiyur High Road, Chennai, a batch of writ petitions were filed before this Court and a common order was passed and the relevant Para Nos. 5 and 6 are extracted hereunder:

"5. The Judgment was confirmed by the Division Bench in W.A.(MD) Nos.1058 to 1086 of 2017 by observing that licenses 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 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".

6. Learned counsel appearing for the respondent further submitted that Writ Appeals were filed by the writ petitioners and they were also rejected. Thus, in respect of enhancement of rent, issues were resolved and therefore, the present writ petition also deserves to be rejected.

7. This Court is of an opinion that the writ petitioner is a tenant and periodical enhancement cannot be avoided. The writ petitioner is in occupation of commercial premises in Tiruvottiyur High Road, which is a commercial area and therefore, enhancement of rent, which is a revenue for Chennai Corporation should be taken care of, by the competent authorities. Adequate revenue for implementing the welfare schemes and to provide infrastructure and other amenities to citizens at large, is the prime duty of the Corporation at Chennai. Thus, in respect of building owned by the Corporation, periodical enhancement of rent, in commensurate with the market rent prevailing, is not infirm. When the land lords are enhancing the rent, the Chennai Corporation, as the owner, is duty bound to enhance the rent in the interest of the public and for the welfare of the citizens at large. Thus, there is no infirmity in respect of enhancement of rent.

8. The writ petitioner being the tenant is at liberty to stay in the rented premises or take a decision of his own choice. Contrarily, he cannot dispute such an enhancement of rent made by the Corporation of Chennai, in commensurate with the prevailing market rent in the locality. When it is brought to the notice of this Court that other tenants in the same complex are paying the enhanced rent, there is no reason to consider the case of writ petitioner in isolation. When all other tenants are paying the enhanced rent, the petitioner is also duty bound to pay the enhanced rent. He has to take a decision whether to continue in the premises or to vacate the premises and hand over to the Corporation of Chennai. It is informed that the arrears of rent to be paid to the Chennai Corporation as of now is Rs.9,34,200/-.

9. Taking note of all these factors, the following orders are passed :

1. The relief as such sought for in this writ petition stands rejected.

2. The writ petitioner is directed to pay the arrears of rent for a sum of Rs.9,34,200/- within a period of four (4) weeks from the date of receipt of a copy of this order.

3. In the event of not paying the arrears of rent within the time stipulated above, the respondent / Corporation is directed to initiate all further action to evict the writ petitioner from the premises by following the procedures contemplated under law, and to recover the arrears the rent with interest.

10. Accordingly, the Writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

pns/mkn
To

1. The Secretary to Government
Municipal Administration & Water Supply Department,
Fort, St.George, Chennai.
2. The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai - 600 003.
3. The Assistant Revenue Officer,
Zonal Office - 1, Greater Chennai Corporation,
No.945, Tiruvottiyur High Road,
Tiruvottiyur, Chennai - 600 019.

+ 1 cc to Mr. M. Murali, Advocate sr.63164
+ 1 cc to Mr.K. Soundararajan, Advocate SR.63012
+ 1 cc to Government Pleader Sr.63474

W.P.No.11643 of 2017

(CS-IX)
EU(27/09/2018)