

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.8951 of 2018
and W.M.P.No.10805 of 2018

Barma Thamizhar Marumalarchi Sangam,
Rep. By its Secretary,
Haji S. Ameer Hamsa

... Petitioner

Vs.

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George, Chennai - 9.

2.The District Collector of Chennai,
Office of District Collector,
Singaravelar Maligai, Chennai.

3.The Corporation of Chennai,
Rippon Building, Chennai.

4. The District Revenue Officer & Zonal Officer,
Zonal Office -5, Greater Chennai Corporation,
No.61, Basin Bridge Road, Chennai - 21.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records relating to the impugned Notice bearing Ma.A.5.Va.Du.Na.Ka.Number: A-5/1508/2017, dated 17.07.2017 issued by the 4th respondent in respect of Shops of petitioner's Association Members i.e. "Barma Thamizhar Marumalarchi Sangam" situated at Beach Road and 2nd Line Beach Road, Chennai - 1, on the file of the 4th respondents and quash the same.

For Petitioner : M/s. G.Lavanya
For Respondents : Mr.V.Shanmuga Sundar,
Spl.G.P. (for RR1 & 2)
Mr.T.C.Gopalakrishnan, (for RR3 & 4)

ORDER

The petitioner-Association has filed this Writ Petition challenging the fixation of licence fee fixed by the 4th respondent.

2. Mr.V.Shanmuga Sundar, learned Special Government Pleader takes notice for the respondents 1 & 2 and Mr.T.C.Gopalakrishnan, learned Standing Counsel takes notice for the respondents 3 & 4. By consent, this Writ Petition is taken up for final hearing at the admission stage itself.

3. According to the petitioner, the members of the petitioner-Association are lessees of the shops owned by Chennai Corporation and they are paying rent regularly. The grievance of the petitioner is that the respondents have increased the rent in manifolds, without any basis. Hence, this Writ Petition is filed.

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 licence 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 similar facts, in another batch of Writ Petitions in W.P.No.16095 of 2017, etc., a learned Single Judge, while dismissing the Writ Petitions, has issued the following directions:

"11. I find no merit in the writ petitions, which are dismissed accordingly. No costs. Consequently,

connected miscellaneous petitions are closed. If it is for the petitioners to accept the offer given by the 4th respondent, they being in the occupation for several years, failing which, the 4th respondent shall go ahead with the auction. In case the petitioners do not give consent for payment of the enhanced amount within one month, it is open to the 4th respondent to go ahead with the auction, and till such time, the auction is announced, the petitioners may continue in the same place. As there is possibility of challenging the auction notice and the petitioners continue in that place on account of a case or on account of interim order, this Court directs 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. "

7. This Writ Petition is also dismissed on the same lines, as extracted above. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

pvs

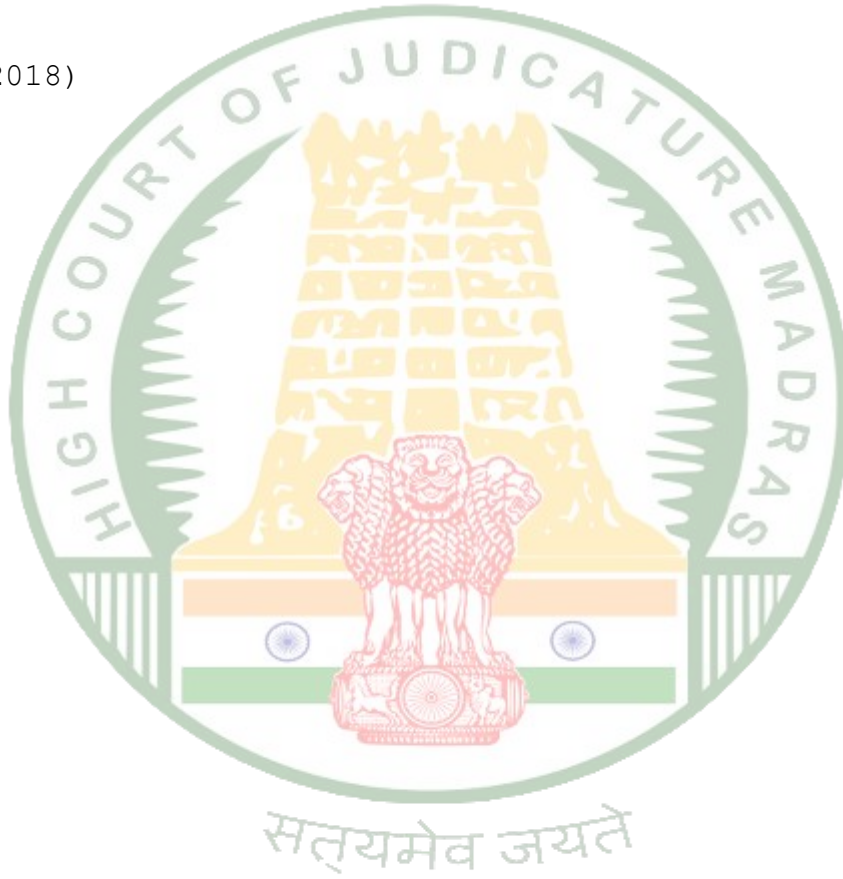
To

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+1 CC to Ms.G. Lavanya, Advocate sr 27208
+1 CC to Mr.T.C. Gopalakrishnan, Advocate sr 27018.
+1 CC to Govt. Pleader sr 27713.

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SP (14/05/2018)



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