IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.A.No.548 of 2018
and
C.M.P.Nos.5339 and 5340 of 2018

S.K.Subbiah .. Appellant

Vs.

1. The Commissioner,
Municipal Administration and
Water Supply Department,
Chepauk, Chennai-600 005.

2. The Commissioner,
Greater Chennai Corporation,
Lord Rippon Buildings, Chennai-600 003.

3. The Zonal Officer, Zone-13,
Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai-600 020.

4. The Assistant Revenue Officer,
Zone-13, Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai-600 020. .. Respondents

Writ Appeal filed Clause 15 of the Letters Patent against the order dated 05.01.2018 passed by the learned Single Judge in W.P.No.16184 of 2017 on the file of this Court.

Prayer in WP.No.16184 of 2017: Praying to issuea writ of certiorarified mandamus, to call for the records of the impugned demand notice of the 3rd and 4th respondent in MA 13 Na.Ka. No.R3/ 0065 /2017 dt: 02.05.2017 pertaining to the Shop No.16 situated at Ward No.175 Vegetable Market Corporation Commercial Complex 3rd Avenue Indira Nagar Chennai - 600 020 and quash the same and consequently direct the respondents 2 to 4 to revise and fix the fair rent for the above Shop. No.16 in accordance with the r rules and recommended guidelines.

For appellant : Mr.R.Kandasamy

For respondents: Mr.R.Udaya Kumar, Addl.G.P. for R-1
Mr.K.Soundararajan for RR-2 to 4

JUDGMENT

(The Judgment of the Court was delivered by M.Venugopal, J)

Heard both sides and perused the materials available on record.

2. The appellant/writ petitioner has preferred the present intra-Court appeal against the order dated 05.01.2018 in W.P.No.16184 of 2017 passed by the learned Single Judge in dismissing the said Writ Petition.

3. Earlier, the learned Single Judge, while passing the impugned order in the said Writ Petition, has observed the following in paragraphs 7 to 10:

> "6. The sum and substance of the issue in question is as to whether the Corporation is entitled to fix the rent on a higher side, be it lease/rent and demand the amount from the petitioner, as calculated by them.
>
> 7. It is not in dispute that the petitioner is in occupation of the premises in question as lessees and paying the rent regularly and that it was revised periodically once in every three years as per the said Government Order.
>
> 8. In a similar circumstance, a Division Bench of this Court in the case of P.V.Subramanian v. Secretary to Government, 2014 (5) MLJ 129, has held that licence cannot be converted into one of lease and that the object of letting out the shop is to collect more revenue for the Corporation/Municipality and that the extension granted to the existing licensees is only by way of concession and that the revision is made based on the prevailing market value and not otherwise. For better understanding, relevant portion of the said decision reads as under:
>
> > "20. The facts narrated above would clearly indicate that the petitioners have been given only a licence to run the shops. Just because the word "lease" has been mentioned, a licence cannot ipso facto be converted into a lease. Admittedly, the licence issued has a fixed terms. Therefore, the petitioners do not have a legal or a vested right to continue in occupation for ever. There is no doubt that the provisions of the Tamil Nadu Buildings (Lease and Rent

Control) Act, 1961, does not apply to the case on hand. The petitioners can very well participate in the proposed auction. In other words, they cannot claim the right of a statutory tenant.

21. The object of letting out the shops is to collect more revenue for the respondent-Municipality, which is meant to be used for welfare measures. The Government Orders, as narrated above, are very specific about the purpose of auction followed by lease/licence. Since the transactions are commercial in nature, the petitioners, being licensees, cannot insist that the rent, which as they think, just and proper alone is liable to be paid. Since the licence is to be granted by the respondent-Municipality, while making offer, the said authority can impose its own terms in accordance with law. While accepting the said offer, the petitioners cannot insist that the condition attached therein cannot be imposed. A perusal of the Government Orders referred to above as well as the orders impugned make it clear that the rent has been fixed based upon the prevailing market value and not otherwise. What has been given by way of extension to an existing licensee was only a concession. The subsequent extension has been made during the pendency of the writ petitions. The said decision was made in view of the undertaking given by the licensees. An undertaking was given in connection with the payment as well as on the withdrawal of the writ petitions. The Government orders also state that in the event of non compliance of the conditions imposed including the payment of appropriate rent, a licensee is liable to be removed.

22. The resolution has been passed after making detailed discussion and it was also passed as a consequence of the earlier order dated 14.12.2012 by which rent was fixed. Since the said rent so fixed was not paid, the respondent-Municipality was made to pass the impugned resolution. Therefore, it cannot be said that the impugned resolution has been unilaterally passed and as such, the said decision is in accordance with the Government Orders passed, which confer the power on the

respondent-Municipality to take action towards the eviction from the shops in the event of non payment of rent payable. The extraction of the related paragraphs of the resolution would clearly show that relevant materials have been taken into consideration while passing the same. The respondent-Municipality has got its own duty and obligation to perform. Appointments will have to be made to the public office and salaries will have to be paid. Money will have to be spent towards the welfare measures. The assessment made also indicates that the proposed auction would bring more money. The best way to get the maximum revenue is by way of public auction. This will also create a level playing field enabling others to participate along with the petitioners/licensees. Therefore, we do not find any arbitrariness in the action of the respondent-Municipality. The reliance made by the petitioners on the communication dated 12.03.2009 cannot be accepted since it cannot overreach the Government Orders which speak about removal when conditions are not complied with. The fact that the Commissioner of Municipal Administration directed the respondent-Municipality to fix the market rent as the rent payable based upon the Government Orders which in turn was complied with would also show that there is no quarrel with the position that the market rent shall be the basis for the fixation of the rent payable by the licensees. In any case, the petitioners, being the defaulters, cannot contend that they should be allowed to continue forever. As the orders impugned have been passed by taking into consideration of the relevant materials, we do not find any room for interference."

9. From the above discussion and in the light of the decision cited supra, it is seen that the respondents-Corporation has fixed the rent with all due considerations. Reduction of 33% in the guideline value would not be a valid reason for the petitioner to interfere with the decision of the respondents-Corporation. The Government might have revised the guideline value to 1/3 (33%) only to safeguard their

own interest to avoid paying compensation to the landowners for the lands acquired by them, as they need to pay hefty compensation to the land owners in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and not otherwise.

10. Thus, this Court finds no merit in this Writ Petition, which is therefore, dismissed accordingly. It is upto the petitioner to accept the offer given by the respondents-Corporation, since they have been in occupation of the premises for several years, failing which, the respondents-Corporation shall go ahead with the auction. In case, the petitioner do not give consent for the payment of the enhanced amount within one month, it is open to the respondents-Corporation to go ahead with the auction, and till such time the auction is announced, the petitioner may continue to function in the same place. As there is a possibility that the petitioner may challenge the auction notice and continue to function in the same place on account of any litigation or interim order, in order to avoid such circumstances, this Court holds that once the auction notification is published, the petitioner is deemed to have vacated the tenements and the respondents can enter the place with the help of police force, if required.

No costs. Consequently, connected Miscellaneous Petitions are closed."

4. Assailing the legality/validity of the correctness of the impugned order passed by the learned Single Judge, the appellant/writ petitioner has filed the instant Writ Appeal on the ground that the learned Single Judge had failed to take into account at the time of passing the impugned order that the appellant/writ petitioner is regularly paying the rent until it was enhanced arbitrarily without notice. Advancing his arguments, learned counsel for the appellant contends that the learned Single Judge had failed to take into account that the fixation of rent for 32 shops by the respondents without following the basic principles of depreciation, usage, age and the value of the building, net profit in the business, is violative of Article 14 of the Constitution of India.

5. It is represented on behalf of the Appellant that the learned Single Judge should have taken note of the fact that the demand notice without calling for any explanation/opportunity before giving effect into, is against the principles of natural justice and fair play. Learned counsel for the appellant proceeds to point out that instead of fixation of fair rent, the

respondents, i.e. the second respondent in particular, had compelled the appellant to pay rent in exorbitant rate at Rs.55/- per Sq.Ft. , which is unknown to law and clear violation of right to life as guaranteed under Article 21 of the Constitution of India.

6. In effect, learned counsel for the appellant projects a plea that the learned Single Judge had not taken into account the fact that no clear yardstick was used for fixation/enhancing the rent for every three years and in fact, the learned Single Judge should have verified as to whether an opportunity was provided to the appellant before fixation of rent in exorbitant rate, which may totally shatter the life of the appellant.

7. In the above context, this Court very pertinently cites a decision of this Court in the case of P.Muthusamy Vs. State of Tamil Nadu, reported in 2014 (5) MLJ 129, wherein, it is observed and held as under:

> "20. The facts narrated above would clearly indicate that the petitioners have been given only a licence to run the shops. Just because the word "lease" has been mentioned, a licence cannot ipso facto be converted into a lease. Admittedly, the licence issued has a fixed terms. Therefore, the petitioners do not have a legal or a vested right to continue in occupation for ever. There is no doubt that the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1961, does not apply to the case on hand. The petitioners can very well participate in the proposed auction. In other words, they cannot claim the right of a statutory tenant."

8. It must be borne in mind that in general Law and in case where tenancy is governed under the provisions of the Transfer of Property Act, 1882, once the tenancy comes to an end by determination of Lease, as per Section 111, the Right of the Tenant to continue in the premises comes to an end and thereafter, for occupying the premises, a person is liable to pay damages for use and occupation at a rate of which the land owner / land lady covered for renting out the premises on being vacated by the tenant.

9. It is to be noted that the undermentioned circumstances present will prove that the transaction is a 'Lease'.

(i) An exclusive possession of the premises;

(ii) The other side had no access to the portion of the premises occupied by the person in possession;

(iii) The portion occupied by an individual in possession was provided with a sub-meter for electricity;

(iv) The monthly payment of rent for the premises occupied by a person in possession;

(v) The demise was for a determined period.

(vi) No power was reserved to cancel the contract before the expiry of the fixed term;

(vii) A provision made for extending the contract terms by means of a mutual agreement.

(viii) Penal provisions were incorporated providing for enhanced payment of rent, in case individual possession continued after the fixed period.

10. Insofar as the transaction is a 'License', the following factors may be taken into the account:

(a) Shop was to be run only for sale of a particular product ;

(b) Shop was meant to satisfy the needs of certain group of people;

(c) License would not be heritable and assignable;

(d) On the expiry of the relevant period and on expiry of any renewed period, possession was to be handed over.

11. After all, it is a creation of an interest in immovable property or a right to possess it that distinguishes 'Lease' from 'License', in the considered opinion of this Court. There is a thin line of difference between a 'Lease and License'. In short, whether the transaction is license, depends squarely on the intention of the concerned parties and the nature of possession granted. Also that the conduct of litigant's / parties prior and after creation of relationship, is very much relevant to find out their intention. In regard to the determination whether the transaction is a 'Lease or License', endeavour must be made to find out whether the deed showers a right to those exclusives coupled with Transfer of Right to enjoy the property or what was parted with is merely to use the property while the possession is retained by the owner. In short, the intention of the parties is a determining factor and a Court of Law to ascertain the intention is to examine the attendant circumstances by looking into the conduct of parties.

12. The prime test in a given case is whether the document is intended to create or not to create an interest in the property and the subject matter of an agreement. In reality, if it is intended to create an interest in the property, it is a 'Lease', if it does not, then, it is the 'License', as per the decision of the Hon'ble Supreme Court between Sohan Lal Narandas Vs. Laxmandas reported in 1977 (1) SCC Page 276 at page 280.

13. There cannot be any two opinion of a prime fact that the licence issued in favour of the writ petitioner is for fixed term only and if that be so, after the expiry of the fixed term,

a person/occupier of a shop, has no right to continue in occupation for ever. Also that, it cannot be brushed aside that the aim and purpose of letting out the shops to rent, is to augment the resources of the concerned Municipality, which is meant to be utilised only towards the welfare measures of the people.

14. In the instant case on hand, it is represented that the Appellant/writ petitioner was paying periodically the revised rent once in three years as per G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007. If the appellant/writ petitioner is not willing to pay the revised rent as demanded, the principal contention advanced on behalf of the appellant is that it is not open for the respondents to go in for auction.

15. The crux of the matter/point that is involved in the present Writ Appeal is that whether the Corporation of Chennai, in law, is empowered to fix the rent on higher side, and whether it is on Lease or on rental basis and make a demand in regard to the amount claimed from the appellant.

16. This Court, on going through the impugned order passed by the learned Single Judge with meticulous care and caution, is of the considered view that it is for the writ petitioner to accept the offer projected by the Corporation of Chennai and it is not in dispute that the Appellant is in occupation of the premises for numerous years. If the shop is let out on rent in public auction, undoubtedly, the Corporation will be the beneficiary, because there is an invitation to the other prospective individuals to bid for the premises in question and the public auction to be announced by the Corporation is the proper safest and legal method to collect the fair rent from the concerned person after determining the same, of course, by adhering to the relevant Rules.

17. Furthermore, once the Notification was published, the appellant/writ petitioner, who after expiry of the lease/licence period, is not entitled to continue and if he continues to occupy the premises in question, he can only be a person termed as 'person under sufferance' and it is always open for the respondents to take the possession of the premises with the help of the concerned law enforcing authority.

18. The Learned Single Judge also at paragraph 9 of the impugned order, had proceeded to opine that reduction of 33% in the guideline value, would not be a valid reason for the appellant/writ petitioner to interfere with the decision of the Corporation of Chennai. The learned Single Judge, apart from expressing his opinion at paragraph 9, had also proceeded to make a significant mention that the Government might have revised the guideline value to 33% only to safeguard their own interest to avoid paying compensation to the land owners for the land acquired by them, as they need to pay hefty compensation to

the land owners in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and not otherwise.

19. At this juncture, with regard to G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007, this Court feels it worth to recall and recollect the decision of this Court dated 03.01.2018 in the case of P.Elangovan Vs. The District Collector, Thiruvannamalai, in W.A.Nos.839 and 840 of 2017, wherein we have observed as follows:

> "6. .. .... Whether the appellant is an encroacher or whether Government Thoppu Poramboke land has been allotted to him in terms of G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007 and whether there was demolition of building by the respondents during the extended period of lease, are all disputed questions of fact, which cannot be gone into by this Court in this Writ Appeal. ... "

20. In this connection, this Court aptly points out the decision of a Division Bench of this Court in the case of P.Muthusamy Vs. State of Tamil Nadu, rep. By its Secretary to Government, Municipal Administration and Water Supply Department, Chennai and another, reported in 2014 (5) MLJ 129, wherein it is laid down as under:

> "The petitioners have been given only a licence to run the shops. Just because the word "lease" has been mentioned, a licence cannot ipso facto be converted into a lease. Admittedly, the licence issued has fixed terms. Therefore, the Petitioners do not have a legal or a vested right to continue in occupation for ever.
>
> The object of letting out the shops is to collect more revenue for the Respondent-Municipality, which is meant to be used for welfare measures. The resolution has been passed after making detailed discussion and it was also passed as a consequence of the earlier order by which rent was fixed. Since the said rent so fixed was not paid, the Respondent-Municipality was made to pass the impugned resolution. Therefore, it cannot be said that the impugned resolution has been unilaterally passed and as such, the said decision is in accordance with the

> Government Orders passed, which confer the power on the Respondent-Municipality to take action towards the eviction from the shops in the event of non-payment of rent payable. Respondent-Municipality has got its own duty and obligation to perform. Appointments will have to be made to the public office and salaries will have to be paid. Money will have to be spent towards the welfare measures. The assessment made also indicates that the proposed auction would bring more money. The best way to get the maximum revenue is by way of public auction. Therefore, this Court does not find any arbitrariness in the action of the Respondent-Municipality. The Petitioners, being the defaulters, cannot contend that they should be allowed to continue forever."

21. Also this Court worth recalls and recollects the decision of the Honourable Supreme Court in the case of Shri Sachidanand Pandey and another Vs. The State of West Bengal and Others, reported in AIR 1987 SC 1109 at Special Page 1133 at paragraph 39, wherein it is observed as follows:

> "39. On a consideration of the relevant cases cited at the bar the following propositions may be taken as well established: State-owned or public-owned property is not to be dealt with at the absolute discretion of the executive. Certain precepts and principles have to be observed. Public interest is the paramount consideration. One of the methods of securing the public interest, when it is considered necessary to dispose of a property, is to sell the property by public auction or by inviting tenders. Though that is the ordinary rule, it is not an invariable rule. There may be situations where there are compelling reasons necessitating departure from the rule but then the reasons for the departure must be rational and should not be suggestive of discrimination. Appearance of public justice is as important as doing justice. Nothing should be done which gives an appearance of bias, jobbery or nepotism."

22. Apart from the above, this Court cites a decision of the Hon'ble Supreme Court in Mahabir Auto Stores and Others Vs. Indian Oil Corporation and Others, reported in AIR 1990 Supreme Court 1031 at Special Page 1032, whereby and whereunder, it is observed and held as follows:

> "The State acts in its executive power under Art.298 of the Constitution in entering or not entering in contracts with individual parties. Article 14 of the Constitution would be applicable to those exercise of power. Therefore, the action of State organ can be checked under Art.14. Every action of the State executive authority must be subject to rule of law and must be informed by reason. So whatever be the activity of the public authority, it should meet the test of Art.14 of the Constitution. If a Governmental action even in the matters of entering or not entering into contracts, fails to satisfy the test of reasonableness, the same would be unreasonable. Rule of reason and rule against arbitrariness and discrimination, rules of fair play and natural justice are part of the rule of law applicable in situation or action by State instrumentality in dealing with citizens. Even though the rights of the citizens are in the nature of contractual rights, the manner, the method and motive of a decision of entering or not entering into a contract, are subject to judicial review on the touchstone of relevance and reasonableness, fair play, natural justice, equality and non-discrimination. It is well settled and there can be "malice in law". Existence of such "malice in law" is part of the dimension of the rule of relevance and reason as well as the rule of fair play in action.

23. Added further, in the decision of the Hon'ble Supreme Court in the case of Delhi Science Forum and others Vs. Union of India and another, reported in 1996 (2) SCC 405, at Special Page 409, it is laid down as follows:

> "The question of awarding licences and contracts does not depend merely on the

> competitive rates offered; several factors have to be taken into consideration by an expert body which is more familiar with the intricacies of that particular trade. While granting licences a statutory authority or the body so constituted should have latitude to select the best offers on terms and conditions to be prescribed taking into account the economic and social interest of the nation. Unless any party aggrieved satisfies the court that the ultimate decision in respect of the selection has been vitiated, normally courts should be reluctant to interfere with the same."

24. In the decision of this Court reported in A.Sathar Vs. The District Collector, Coimbatore and another, reported in AIR 1998 Madras 217 and 218, wherein at paragraph 2, it is observed as follows:

> "..... We are of the view that the appellant has no vested right to continue in occupation of the premises in question. Admittedly, the premises in question belong to the second respondent/panchayat which is entitled to lease out the properties owned by it by public auction. As rightly pointed by the learned single judge, properties owned by the Municipality are also a source of revenue to the Municipality and the interest of the Muncipality has to be balanced as against the interest of the shop owner lessee. It cannot be disputed that the lessees may also be entitled to a fair term and the Government had, therefore, allowed the lessees to continue their occupation for a second term. As already seen the appellant was given extension of lease period from time to time from the year 1988 to 31.02.1997 on terms. Even the last lease was extended for three years by enhancing the rent by 30 percent. Under these circumstances, it is not fair on the part of the appellant to ask for the extension of the lease for further term of three years from 1-4-1997 to 31.03.2000 on an enhancement of 15 per cent of the previous rent. The extension granted earlier by the Panchayat, to the appellant would not mean that the appellant is entitled to

> continue in possession of the premises in question for ever by paying ridiculously low rent. We are of the view that the extension of the lease to the appellant is against the interest of the Panchayat. As already noticed the rental income from the properties owned by the Panchayat is one of the sources of income to the Panchayat. Therefore, the interest of the Panchayat cannot be jeoparadised by permitting the appellant to continue in possession of the premises in question at the enhanced rate of 15 per cent as prayed for. There are absolutely no merits in this writ appeal and the same is dismissed."

25. Besides the above decisions, this Court points out the decision of the Honourable Supreme Court in the case of Nagar Nigam Meerut Vs. AL Faheem Meat Exports (P) Ltd. and others, reported in 2006 (13) SCC at page 382 and at special pages 384 and 385, it is observed and laid down as follows:

> "It is now a well-settled principle of law that having regard to the provisions of Article 14 of the Constitution, State within the meaning of Article 12 thereof cannot distribute its largesse at its own sweet will. The court can ensure that the statutory functions are not carried out at the whims and caprices of the officers of the Government/local body in an arbitrary manner. But the court cannot itself take over functions. Not finding any arbitrariness, discrimination or malafides, the High Court had no justification for interfering with the advertisement inviting fresh offers for the contract in question.
>
> All contracts by the Government or by an instrumentality of the State should be granted only by public auction or by inviting tenders, after advertising the same in well-known newspapers having wide circulation, so that all eligible persons will have an opportunity to bid in the auction, and there is total transparency. This is an essential requirement in a democracy, where the people are supreme, and all official acts must be actuated by the

public interest, and should inspire public confidence. The Supreme Court has been insisting upon that rule, not only to get the highest price for the property but also to ensure fairness in the activities of the State and public authorities. The State or its instrumentalities should not give contracts by private negotiation but by open public auction/tender after wide publicity. Although the Nagar Nigam had advertised the contract, the High Court has directed that it should be given for 10 years to a particular party (Respondent 1). The contract had not only been given by way of private negotiation, but the negotiation had been carried out by the High Court itself, which is impermissible.

Having regard to the nature of the trade or largesse or for some other good reason, a contract may have to be granted by private negotiation, but normally that should not be done as it shakes the public confidence. However, in rare and exceptional cases, for instance during natural calamities and emergencies declared by the Government; where the procurement is possible from a single source only; where the supplier or contractor has exclusive rights in respect of the goods or services and no reasonable alternative or substitute exists; where the auction was held on several dates but there were no bidders or the bids offered were too low, etc., this normal rule may be departed from and such contracts may be awarded through "private negotiations."

26. Furthermore, in the Division Bench judgment of this Court in Writ Appeal No.1471 of 2014 (between C.Vinoba and othres Vs. The Commissioner, Palladam Municipality, Palladam, Thiruppur District and others), at paragraph 5, it is observed as follows:

"5.There is no dispute that the rent paid by the appellants as compared with the present market rent is nominal. It is also not in dispute that under G.O.Ms.No.92, Municipal Administration and Water Supply department dated 03.07.2007, the appellants have a right to continue for a maximum period of nine years on a lease of three years subject to renewal. The appellants have been occupying the shops for a very long period on payment of the rent of a meagre amount. Thus, the appellants cannot claim renewal as a matter of right. The Municipality has several functions to perform for the welfare of the people of the locality. The collection of market rent is one of the source of income of the municipality. Thus, the municipality cannot be permitted to allot shops on nominal rent without assessing the market value of the same. It is well certain that auction is the best mode of allotment of shops.”

27. It is to be borne in mind that the grant of an order of 'Mandamus' is as a general rule, a matter for the discretion of Court. It is not granted as a right and it is not issued as a matter of course. The purpose of 'Mandamus' is to prevent disorder from the failure of justice and is required to be granted in all cases where Law has established no specific remedy, as per the decision of the Honourable Supreme Court in the case of Union of India Vs. S.B.Vohra, reported in AIR 2004 SC 1402.

28. The function of 'Mandamus' is to compel action in a real sense, a 'Mandamus' cannot be issued to substitute a Judgment or discretion of the Court for that of authority against whom it is issued. It is to be noted that a Court of Law cannot take a decision, which in Law is to be taken by Statutory Authority. As a matter of fact, the relief to be granted in favour of a certain party who approached the Writ Court, is an equitable and discretion one, in the considered opinion of this Court.

29. Further, one of us (S.Vaidyanathan, J) has also dealt with the issue in question relating to the said G.O.Ms.No.92 and observed as follows in W.P.Nos.12706 to 12713 of 2017 (A.Srinivasan and others Vs. Tindivanam Municipality), by order dated 22.11.2017:

"9. From the above discussion and in the light of the decisions cited supra, the respondent herein has fixed the rent with all due considerations. Merely because there is a reduction of 33% in the guideline value, it would not be a reason enough for the petitioners to interfere with the order of the decision of the respondent. The Government might have revised the guideline value to 1/3 (33%) only to safeguard their own interest to avoid paying compensation to the landowners for the lands acquired by them, as they need to pay hefty compensation to the land owners in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and not otherwise.

10. Thus, this Court finds no merit in these writ petitions, which are therefore, dismissed accordingly. It is upto the petitioners to accept the offer given by the respondent, since they have been in occupation of the premises for several years, failing which, the respondent shall go ahead with the auction. If there are any arrears and the petitioners want to continue with the enhanced rent amount, the arrears shall be paid within two months from the date of acceptance of the offer. In case the petitioners do not give consent for the payment of the enhanced amount within one month, it is open to the respondent to go ahead with the auction, and till such time the auction is announced, the petitioners may continue to function in the same place. As there is a possibility that the petitioners may challenge the auction notice and continue to function in the same place on account of any litigation or interim order,in order to avoid such circumstances, 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.

No costs. Consequently, connected miscellaneous petitions are closed."

30. It is made clear that if extension is provided to the appellant/writ petitioner or if the appellant is continuing to occupy the premises in question after expiry of lease/licence period, then, it is only a concession offered by the respondents/Corporation of Chennai and it cannot in any manner enure to the benefit of the appellant/writ petitioner in heightening his case. Further, it is open for the respondents/Corporation of Chennai to ascertain the extent of land in the premises occupied by the appellant/writ petitioner and to take further action in the subject matter in issue.

31. In short, after going through the impugned order passed by the learned Single Judge and also this Court, by looking into

the ratio laid down in the said decisions discussed supra, is of the earnest opinion that the impugned order of the learned Single Judge finding no merits and dismissing the Writ Petition, is free from any legal flaw. Consequently, the Writ Appeal fails.

32. In fine, the Writ Appeal is dismissed, leaving the parties to bear their own costs. Consequently, C.M.Ps. are closed.

Sd/-
Assistant Registrar(Audit)

//True copy//

Sub Assistant Registrar

cs

To

1. The Commissioner,
   Municipal Administration and
   Water Supply Department,
   Chepauk, Chennai-600 005.

2. The Commissioner,
   Greater Chennai Corporation,
   Lord Rippon Buildings,
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   No.115, Dr.Muthulakshmi Salai,
   Adyar, Chennai-600 020.

+1cc to Mr.R.Kandasamy, Advocate SR.No.19444
+1cc to Mr.K.Soundararajan, Advocate SR.No.20017

W.A.No.548 of 2018

NRI(CO)
GN(03/04/2018)