

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 20.09.2018  
CORAM  
THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN  
W.P. 24195 of 2018  
and  
W.M.P. 28200 of 2018

M.Ganesh ... Petitioner

Vs

1. The Secretary to the 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 Commissioner,  
Vellore Municipality,  
Vellore. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the impugned demand notice of the 3rd respondent dated 13.08.2018 and quash the same and further direct the respondents to collect rent from the petitioner at the usual rates.

For Petitioner : Mr.P.V.Sudakar  
For Respondents : Mrs.S.ramya Revathy  
Government Pleader  
for Respondents 1 and 2

Mr.S.Silambanan, Senior Adv.,  
for Ms.P.Shanthi,  
Standing Counsel for R-3

O R D E R

This Writ Petition has been filed challenging the demand notice issued by the 3rd respondent Municipality.

2. According to the petitioner, he is a lessee in respect of shops belongs to the 3rd respondent Municipality and he has been paying the rent at the rate of Rs.39,405/- along with GST. Now, all of a sudden, the 2nd respondent Municipality issued the demand notice directing the petitioner to pay a sum of Rs.14,54,670/- from the month of April 2017 to July 2018 revising the rent at the rate of Rs.77,790/-. Challenging the demand notice, the present Writ Petition has been filed by the petitioner.

3. The learned counsel appearing for the petitioner would submit that the lease amount has been revised without issuing any notice to the petitioner whatsoever and arbitrarily revised the rent exorbitantly. He has further submitted that the Division Bench of this Court in respect of very same Municipality had passed an order dated 25.07.2018 in W.A.Nos.1806 of 2017 etc. directing the 3rd respondent to form a Committee for revising the rent and to determine the rent afresh after giving opportunity to the occupant and he has also produced the copy of the order before this Court.

4. The learned counsel appearing for the 3rd respondent Municipality would submit that the Division Bench of this Court directed the 3rd respondent to form a Committee and refix the lease amount. Now, the 3rd respondent formed a Committee and the opportunity will be given to the petitioner. However, as per the order passed by the Division Bench of this Court, the petitioner has to pay 50% of the enhanced rent till the order passed by the 3rd respondent and he has produced the copy of the order passed by this Court. The relevant portion of the order reads as follows :-

¶7. Neither in the counter affidavit filed before us nor in the counter affidavit filed in the Writ Petition, the Municipal Commissioner, Arani Municipality has stated that the present occupants were put on notice of the proposed increase and an acknowledgement was obtained. Even though the letter dated 30.11.2016 does not contain a positive direction to the Municipality to hear the present occupants, while determining the rent for the future period by taking into account the present market value and the market conditions, we are of the considered opinion that in as much as the Government letter gives priority or a preference to the present occupants to pay the higher rent as determined by the Committee and continue to occupy the property in question, it would be in the interest of justice and fair play that the present occupants should be heard before refixation of the rent by the committee.

9. In the light of the above consensus reached between the parties, these Writ Appeals stand allowed, the orders of the learned Single Judge as well as the impugned notices of enhancement of rent will stand set aside. There will be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

10. We find the committee constituted by the Commissioner of the 5th respondent Municipality is unwieldy in as much as it contains 11 members and the enhancement of rent also is nearly 10 times the existing rent. The learned counsel appearing for the Municipality would upon instructions submit that the Municipality is prepared to reconstitute the Committee and refix the rent payable by the occupants after giving notice to the occupants. Upon the determination of rent by the Committee send notice to the appellants, who are in occupation of shops belonging to the Municipality, the appellants shall decide as to whether they would continue to occupy by paying the higher rent or to vacate and hand over the possession of land.

13. In view of the above, the 5th respondent, the Commissioner of Arani Municipality is directed to form a smaller committee with lesser number of members in compliance with the directions of the Government contained in the circular dated 30.11.2016. The said Committee shall take up the fixation of the rent for the premises in the occupation of the appellants. The Committee shall also hear the appellants on the question of enhancement and thereafter fixed the rent payable for each shop or the commercial premises in occupation of the appellants. Such fixation of rent shall be made with effect from 01.07.2016. Upon such refixation, the appellants may choose either to continue in occupation by paying the rent as fixed by the Committee or to vacate and hand over the possession of the property to the local body.¶

5. Considering the facts and circumstances, in view of the order passed by the Division Bench of this Court, the impugned notices passed by the 3rd respondent Municipality is set aside and the Committee is directed to fix the lease amount after hearing the petitioner as per the order passed by the Division Bench of this Court. The above fixation will be given effect from 01.07.2016. After fixation of the lease amount, it is for the petitioner to decide either to continue in occupation by

paying the lease amount as fixed by the Committee or to vacate and hand over the possession of the property to the local body. Till then, the petitioners are directed to pay 50% of the enhanced lease amount as directed by the Division Bench of this Court.

6. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

20.09.2018

Index:Yes/No

Internet:Yes/no

Speaking Order/Non Speaking Order

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V.BHARATHIDASAN,J.

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