

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.2766 of 2018

and WMP.No.3412 of 2018

R.Anjali

...Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai - 600 003.
 2. The Commissioner,
Municipal Administration and Water Supply Department,
Chepauk, Chennai - 600 005.
 3. The Assistant Revenue Officer,
Chennai Corporation, Ripon Buildings,
Chennai - 600 003.
 4. The Zonal Officer, Zone-9,
Chennai Corporation,
No.1, Lake Area, 4th Cross Street,
Nungambakkam, Chennai - 600 034.
- ...Respondents

Prayer : Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned demand notice MA.A.9.Va.Thu Na.Ka.No.R3/0203/2017, dated 28.04.2017 issued by the 4th respondent in respect of the petitioner's shop No.1241 (18/24), 1st floor at 3rd Cross Street, Raja Annamalaipuram Corporation Shopping Complex and quash the same as arbitrary and devoid of merit and consequently direct the respondents to revise and fix the fair rent for the said shop in accordance with the rules and recommended guidelines.

For Petitioner : M/s.S.Satish

For Respondents : Mr.T.C.Gopalakrishnan (for RR1, 3 & 4)
Mr.A.Ansar, G.A. (for R2)

C O M M O N O R D E R

This writ petition is filed challenging the fixation of licence fee by the 4th respondent.

2. According to the petitioner, she is a licensee of the shop owned by the respondent Corporation. The grievance of the petitioner is that the 4th respondent has increased the rent in manifolds, without any basis and also without providing her an opportunity of hearing.

3. Heard the learned counsel for the petitioner and the learned counsel standing counsel for the respondents 1, 3 and 4 and the learned Government Advocate for the 2 respondent 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 petitioner 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 petitioner 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 petitioner is 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 petition is closed.

Sd/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

pvs

To

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3. The Assistant Revenue Officer,
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4. The Zonal Officer, Zone-9,
Chennai Corporation,
No.1, Lake Area, 4th Cross Street,
Nungambakkam, Chennai - 600 034.

+2 cc to M/s.P.Sivagaminathan, Advocate SR.NO. 10078

+1 cc to M/s.T.C.Gopalakrishnan, Advocate SR.NO. 10062

+1 cc to the Government Pleader, High Court, Chennai SR.NO. 11022

RRI 27/02/18

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