

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2018

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THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P.No.19107 of 2017 &
W.M.P.No.20614 of 2017

Sujit Cherrian
...Petitioner

Vs.

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

...Respondents

COMMON PRAYER: Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records of the third respondent pertaining to the impugned letters / Notice dated 28.04.2017 made in Z.O.9.V.M.Na.Ka.No.R3/0203/2017 issued by the third respondent and quash the same.

For Petitioner : Mr.S.V.Jayaraman, Senior Counsel
For Mr.T.Dhanasekaran

For Respondents : Mr.T.C.Gopalakrishnan
Standing Counsel

ORDER

This writ petition has been filed challenging the fixation of licence fee by the respondents.

2. According to the petitioner, he is licensee of the shop owned by the respondent Corporation. The grievance of the petitioner is that the respondents have increased the rent in manifolds, without any basis and also without providing them an opportunity of hearing.

3. Heard Mr.S.V.Jayaraman, learned Senior Counsel, representing Mr.T.Dhanasekaran, learned counsel for the petitioner; Mr.T.C.Gopalakrishnan, learned Standing Counsel for the respondents and perused the materials available 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 perpetuity 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 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 licensee to accept or leave it.

6. In similar facts, the licensees under the local bodies challenged the enhancement of licence fee, on the ground that it was increased in arbitrary manner, in a batch of Writ Petitions in W.P.No.12706 of 2017, etc., and a learned Single Judge by an order dated 22.11.2017, rejected the contention and observed that the enhancement of licence fee is only an offer and the licensees can either accept the revision or vacate the premises.

7. 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 does 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.

8. With the above observations and directions, this Writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Commissioner,
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+1 CC to Mr.T.C. Gopalakrishnan, Advocate sr 41923

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SP(12/07/2018)