

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 22.10.2018
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P. 24006 of 2018
&
W.M.P. 27972 of 2018

R.Dhanaraj

... Petitioner

-Versus-

1. Tamil Nadu Government,
rep. by its Secretary,
Fort St. George,
Secretariat, Chennai-600 009.

2. The Secretary to Government of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Fort St. George, Secretariat,
Chennai-600 009.

3. The Commissioner,
Dharapuram Municipality,
Dharapuram-638 656.
Tiruppur District.

....Respondents

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India, praying to issue a Writ of Certiorari,
calling for the records in Na.Ka.No.4932/2016/A3, dated
02.08.2018 on the file of the 3rd respondent and to quash the
same.

For Petitioner : Mr.A.K. Sridharan

For Respondents : Mr.A.N.Thambidurai,
Special Government Pleader
for R1 & R2

: Mr.R.Purushothaman for R3

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ORDER

This writ petition has been filed challenging the order
passed by the 3rd respondent Municipality revising the lease
amount to the petitioner shop.

2. According to the petitioner, he was a lessee in respect
of a shop No.15 at Commercial Complex belongs to the 3rd
respondent Municipality from the year 2000. Originally, the

petitioner has agreed to pay the rent at the rate of Rs.633/- per month. Thereafter, the lease amount has been periodically revised. Since the petitioner is being in possession of the shop for more than 9 years, earlier, the 3rd respondent by an order dated 20.03.2017 has revised the lease amount at the rate of Rs.2000/- per month and directed the petitioner to pay the same. Thereafter, by another order dated 02.08.2018, the rent has been revised as per G.O.Ms.No.92, M.A. & W.S. Department, dated 03.07.2007 by the Committee constituted by the Municipality at the rate of Rs.2500/- per month with effect from 01.12.2016 and directed the petitioner to pay the revised lease amount along with arrears. Now, challenging the said order, the present Writ Petition has been filed by the petitioner.

3. Mr.A.K.Sridharan, learned counsel appearing for the petitioner submitted that earlier, the Municipality has enhanced the lease amount at the rate of Rs.2000/- on 20.03.2017 and even though the petitioner is willing to pay the amount, now, the 3rd respondent once again arbitrarily revised the rent at the rate of Rs.2500/-, for which, they have no power. Apart from that, the learned counsel also submitted that in respect of other shops in the same complex, the lease amount has been fixed very low and whereas in respect of the petitioner's shop alone, the 3rd respondent has arbitrarily enhanced the rent at the rate of Rs.2500/-.

4. The 3rd respondent has filed a counter affidavit stating that the license for the shop was given by public auction in the year 2007 at the rate of Rs.550/- per month and the license has been renewed every three years fixing 15% over and above the previous year lease amount. Now, the period of nine years was over for the petitioner's shop, and a Committee has been constituted as per G.O.Ms.No.92, M.A. & W.S. Department, dated 03.07.2007 consisting of (1) Municipal Commissioner, Palladam, (2) Municipal Engineer, Kangeyam Municipality, (3) Town Planning Officer, Pollachi Municipality, and (4) Assistant of the Mettupalayam Municipality for refixation of lease amount in respect of the shops belong to various Municipalities. The Committee has made recommendation for revising the rent to the Regional Director of Municipal Administration, Tiruppur and the recommendation was also approved by the Municipal Council at its meeting held on 31.07.2018 vide Resolution No.605. As per the resolution, the rent has been revised at the rate of Rs.2500/- per month from 01.12.2016. In so far as other shops are concerned, the shops leased out from the year 2014, the period of nine years has not yet been completed, so far, those shops, the lease amount was not received.

5. The learned counsel appearing for the 3rd respondent has contended that as nine years period has been expired during the year 2015, as per G.O.Ms.No.92, dated 03.07.207, the lease

amount has been revised and it has been duly approved by the Municipality and an offer has been given to the petitioner. But, without accepting the offer, the petitioner has filed the present Writ Petition. The learned counsel for 3rd respondent further contended that after expiry of 9 years, the petitioner has no right over the leased out shop and in such circumstances, it is for the petitioner to accept the revised amount fixed by the Municipality, otherwise, the shops will be leased out in a public auction.

6. I have considered the rival submissions and perused the materials available on record carefully.

7. Admittedly, the nine years lease period for the petitioner's shop has been over in the year 2016 itself, and as per G.O.Ms.No.92, the Municipality has the right to revise the lease amount by forming a Committee after expiry of 9 years. The Committee, which was duly constituted as per G.O.Ms.No.92 has revised the rent and that was also approved by the Municipal Council, thereafter, an offer has been made to the petitioner. Now, it is for the petitioner to accept the amount offered by the Municipality for continuing the lease, and it is not open to the petitioner to challenge the same. It is a well settled law that the petitioner has no right to continue the lease perpetually. In the said circumstances, I find no illegality in the order passed by the 3rd respondent Municipality for enhancing the lease amount.

8. Now, the learned counsel appearing for the petitioner submitted that the petitioner is ready to pay the revised lease amount and also accepted the offer made by the 3rd respondent.

9. Considering the above submissions, the petitioner is directed to pay the entire arrears of lease amount at the rate of Rs.2500/- from 30.11.2016 to till date, and give his consent for continuing the lease within a period of eight weeks from the date of receipt of the copy of this order. If the petitioner has paid any amount towards the arrears of lease amount, it should be adjusted by the 3rd respondent.

10. In the result, this writ petition is disposed of with the above direction. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Tamil Nadu Government,
Fort St. George,
Secretariat, Chennai-600 009.
2. The Secretary to Government of
Tamil Nadu, Municipal Administration
and Water Supply Department,
Fort St. George, Secretariat,
Chennai-600 009.
3. The Commissioner,
Dharapuram Municipality,
Dharapuram-638 656. Tiruppur Dt.

+1cc to Mr.A.K.Sridharan, Advocate, S.R.No.72108

+1cc to Mr.P.Srinivas, Advocate, S.R.No.71983

+1cc to the Government Pleader, S.R.No.71992

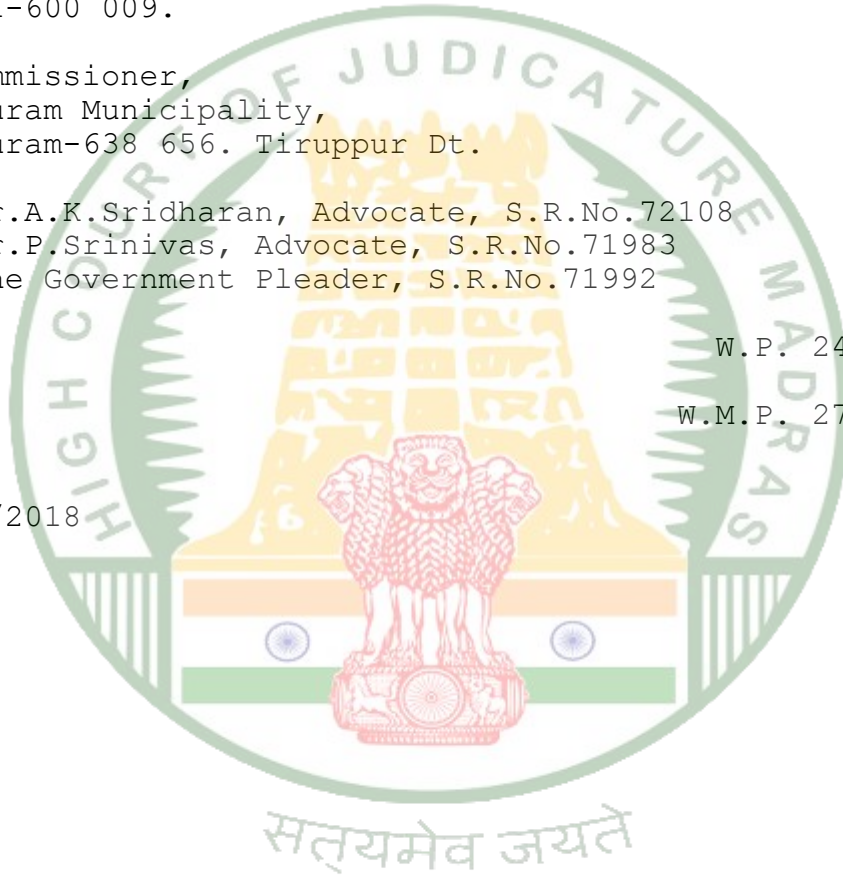
W.P. 24006 of 2018

and

W.M.P. 27972 of 2018

MG(CO)

rrs 03/12/2018



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