

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.Nos.1671 of 2018 & 14624 of 2017
and WMP.Nos.2075 & 2076 of 2018 and WMP.Nos.15857 & 15858 of 2017

NaleniPetitioner in W.P.No.1671 of 2018

1. L.Arul
2. M.Thiyagarajan
3. R.Balamurugan
4. S.Mukundaraman
5. S.Malick Basha
6. S.Sethuraman
7. V.Raman
8. N.Dharman
9. N.D.Prabakaran
- 10.K.Janarthanan
- 11.M.Nirmalragavan
- 12.N.D.Ravichandran
- 13.Badhrun Islam
- 14.T.Manikam
- 15.S.Ravichandran
- 16.R.Jayachitra
- 17.A.Ravi
- 18.H.Nazeer
- 19.G.Palani
- 20.K.Meganathan

.....Petitioners in W.P.No.14624 of 2017

Vs.

सत्यमेव जयते

1. The Secretary to Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Fort St. George, Secretariat,
Chennai - 600 009.
2. The Director of Municipal Administration,
Municipal Administration Department,
Chepauk, Chennai - 600 005.
3. The Regional Director of Municipal Administration,
Sarathi Nagar, Kakithapattarai,
Vellore - 12, Vellore District.

4. The District Collector,
Vellore District,
Vellore.

5. The Municipal Commissioner,
Wallajapet Municipality,
Wallajapet, Vellore District.

...Respondents
in both the petitions

Prayer in W.P.No.1671 of 2018: Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the impugned order in Na.Ka.No.2164/2016/A1, dated 09.05.2017 passed by the 5th respondent, in respect of the petitioner's Shop No.3, situated at Municipality Buildings, First Floor, Walajapet, Vellore District and quash the same.

Prayer in W.P.No.14624 of 2017: Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the impugned notice bearing Na.Ka.No.2164/2016/A1, dated 09.05.2017 in respect of the petitioners' Shops Nos.1, 10, 9, 11, 6 & 5, 7, 3, 10, 2, 12, 11, 1, 6, 2, 35 & 34, 4, 13, 12, 5, 11 i.e., totally 22 shops respectively, situated at Eastern and Front sides Municipal shops, Wallajapet, on the file of the 5th respondent and quash the same.

For Petitioner (in W.P.No.1671/2018) : Mr.K.Mohanamurali

For Petitioner (in W.P.No.14624/2017) : M/s.Kamachi D

For RR1 to 4 (in both the petitions) : Mr.V.Shunmugasundar
Special Government Pleader

For R5 (in both the petitions) : Mr.P.V.Selvakumar

C O M M O N O R D E R

These writ petitions have been filed challenging the fixation of licence fee by the respondents.

2. According to the petitioners, they are licensees of the shops owned by the respondent Corporation / Municipality. The grievance of the petitioners is that the respondents have increased the rent in manifolds, without any basis and also without providing them an opportunity of hearing.

3. Heard the learned counsel for the petitioners and the learned counsel for the respondents 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 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 petitioners 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 petitioners 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 petitioners are 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, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True copy//

Sub Assistant Registrar

pvs

To

1. The Secretary to Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Fort St. George, Secretariat,
Chennai - 600 009.
2. The Director of Municipal Administration,
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Vellore - 12, Vellore District.
4. The District Collector,
Vellore District,
Vellore.
5. The Municipal Commissioner,
Wallajapet Municipality,
Wallajapet, Vellore District.

+1cc to Mr.P.V.Selva Kumar, Standing counsel SR.No.7636

+1cc to Mr.K.Mohanamurali, Advocate SR.No.6754

+1cc to Government Pleader SR.No.7052

+1cc to M/s.Kamachi.D, Advocate SR.No.7504 (25.05.2018)

WP.Nos.1671 of 2018 &
14624 of 2017

SV(CO)
GN(27/02/2018)

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