

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.Nos.17796 of 2018
and
WMP.No.21085 of 2018

Mani

...Petitioner

Vs.

The Commissioner,
Arni Municipality,
Thiruvannamalai District.

....Respondent

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 respondent's impugned order in Na.Ka.No.1408/2016/A3, dated 03.03.2017 issued to the petitioner herein and quash the same.

For Petitioner : Mr.B.S.Ramesh

For Respondent : Mr.V.S.Shanmuga Sundar, SP1.G.P.

ORDER

This writ petition has been filed challenging the fixation of licence fee by the respondent-Municipality.

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

3. Heard the learned counsel for the petitioner and the learned counsel for the 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 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 licensees 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 judgments 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 respondent is 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 respondent can enter the place with the help of police force, if required.

8. With the above observations and directions, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

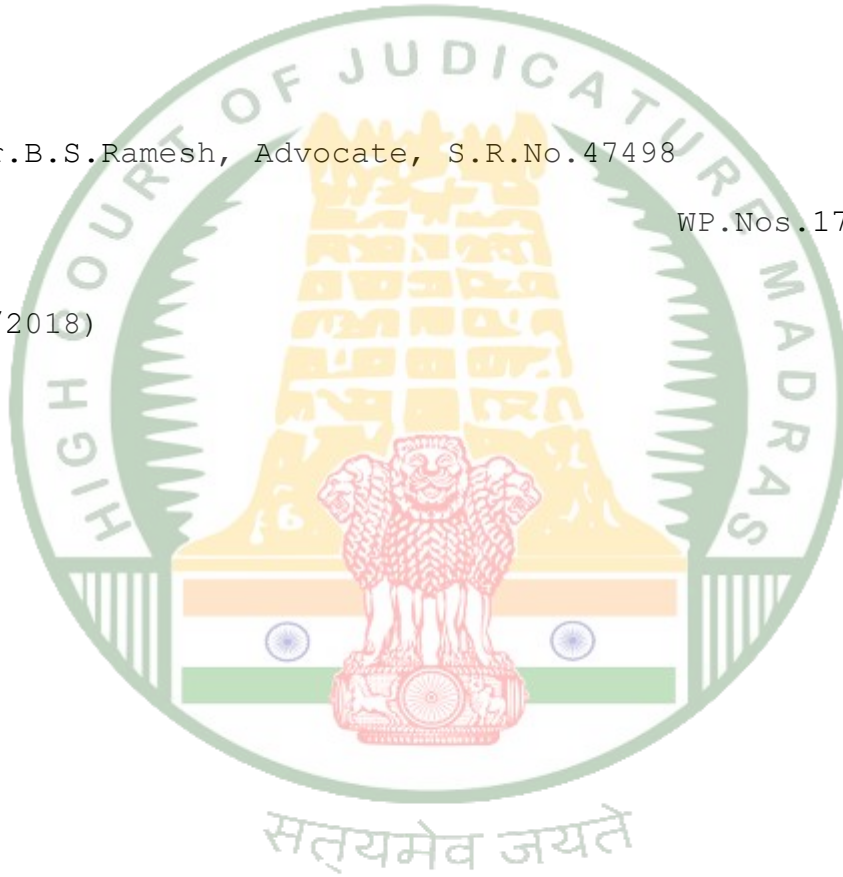
pvs

To

+1cc to Mr.B.S.Ramesh, Advocate, S.R.No.47498

WP.Nos.17796 of 2018

EV (CO)
GSP (27/07/2018)



WEB COPY