

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.Nos.17358 to 17361 of 2013 &

M.P.Nos.1 to 1 of 2013 &

M.P.Nos. 2 to 2 of 2013

Lakshmi Petitioner in W.P.No.17358 of 2013
R.Kamalaveni Petitioner in W.P.No.17359 of 2013
M.Kanagamani Petitioner in W.P.No.17360 of 2013
S.Pappathi Petitioner in W.P.No.17361 of 2013

Vs.

- 1.The District Collector,
Coimbatore District,
Coimbatore.
- 2.The Block Development Officer,
(Village Panchayat),
Panchayat Union, Pollachi North,
Pollachi, Coimbatore District. ... Respondents in all the writ petitions

Prayer in all Writ Petitions : 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 2nd respondent in Na.Ka.No.2234/2008/E1, dated 28.03.2013 and quash the same.

For Petitioners in
W.P.Nos.17358 & 17359/2013 : No appearance

For Petitioners in
W.P.Nos.17360 & 17361/2013 : Mr.C.Veeraraghavan

For Respondents : Mr.B.Anand
(All the writ petitions) Government Advocate for R-1

Mr.K.Karthikeyan for R2

COMMON ORDER

It is represented by Mr.C.Veeraraghavan, learned counsel that he is appearing only for the petitioners in W.P.Nos.17360 & 17361 of 2013 and he has withdrawn his appearance in respect of the petitioners in W.P.Nos.17358 & 17359 of 2013 and has also filed change of vakalat on 02.02.2018, but, so far, they did not engage any counsel. Since the issue arises in all Writ Petitions is one and the same, they are taken together for final disposal.

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

3. 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.

4. Heard the learned counsel for the petitioners and the learned counsel for the respondents and perused the materials on record.

5. 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.

6. 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.

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 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.

8. With the above observations and directions, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

12.02.2018

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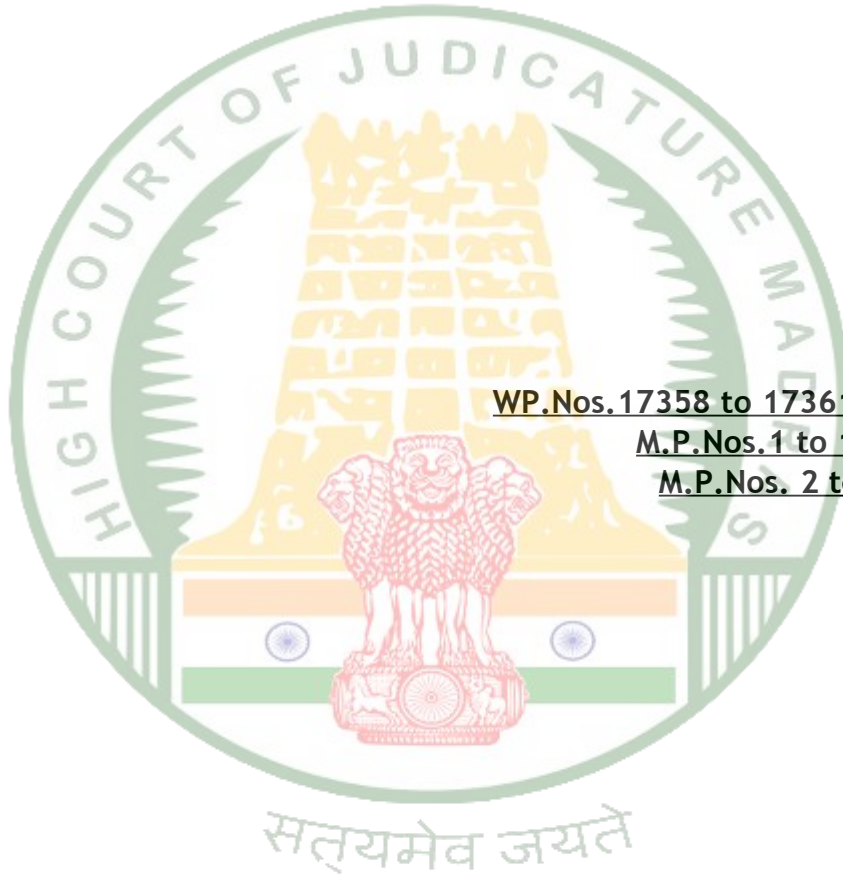
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K.KALYANASUNDARAM, J.

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