

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2018

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

Writ Appeal Nos.2462, 2465, 2477, 2478, 2480, 2489, 2401, 2402,
2404, 2407, 2408 and 2410 of 2018 and
connected Civil Miscellaneous Petitions

SYED SABIULLA ... Appellant in WA No.2462 of 2018
R.VASUDEVAN ... Appellant in WA No.2465 of 2018
T.A.SUBRAMANI ... Appellant in WA No.2477 of 2018
JAYARAJ ... Appellant in WA No.2478 of 2018
P.D.MOHAN ... Appellant in WA No.2480 of 2018
K.THANIGAI ARUL ... Appellant in WA No.2489 of 2018
T.DASARATHAN ... Appellant in WA No.2401 of 2018
S.SEKAR ... Appellant in WA No.2402 of 2018
S.SHIVA KUMAR ... Appellant in WA No.2404 of 2018
K.G.DAYAGARAN ... Appellant in WA No.2407 of 2018
G.SURESH ... Appellant in WA No.2408 of 2018
A.SAMPATH KUMAR ... Appellant in WA No.2410 of 2018

Vs.

1. The Principal Secretary to Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai - 600 009.
2. Commissioner Municipal Administration,
Chepauk, Chennai - 600 005.

3. Principal Director of Municipal Administration
Kagitha Pattarai,
Vellore District, Vellore - 1.
4. The Commissionerm
Tirupattur Municipality,
Tirupattur, Vellore District.

.. Respondents(in all Was)

Prayer :

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 20.11.2017 made in W.P.Nos.21481 of 2017, 21484 of 2017, 21480 of 2017, 21482 of 2017, 21478 of 2017, 21485 of 2017, 21474 of 2017, 21473 of 2017, 18165 of 2017, 18164 of 2017, 18163 of 2017, and 21472 of 2017, passed by His Lordship Mr.Justice S.Vaidyanathan, on the file of this Court.

WP No.21481 of 2017:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari call for the records of the impugned order in Na. Ka. No.1677/2016/A4, dated 19.6.2017 relating to Shop No.26, Situate at New Commercial Complex, Palanisamier Road, Thirupattur, Vellore District passed by the 4th respondent and quash the same

WP No.21484 of 2017:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari call for the records of the impugned order in Na. Ka. No.1677/2016/A4, dated 19.6.2017 relating to Shop No.18, Situate at Quide Millath Commercial Complex Shop, Chairman Duraisamier Street, Thirupattur, Vellore District passed by the 4th respondent and quash the same

WP No.21480 of 2017:-

Writ Petition filed under Article 226 of the Constituution of India, praying for the issuance of a Writ of Certiorari call for the records of the impugned order in Na. Ka.No.1677/2016/A4, dated 19.6.2017 relating to Shop No.15, Situate at New Commercial Complex, Palanisamier Road, Thirupattur, Vellore District passed by the 4th respondent and quash the same

WP No.21482 of 2017:-

Writ Petition filed under Article 226 of the Constituution of India, praying for the issuance of a Writ of Certiorari call for the records of the impugned order in Na. Ka. No.1677/2016/A4, dated 19.6.2017 relating to Shop No.6, Situate

at New Commercial Complex, Palanisamier Road, Thirupattur, Vellore District passed by the 4th respondent and quash the same

WP No.21478 of 2017:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari call for the records of the impugned order in Na. Ka. No.1677/2016/A4, dated 19.6.2017 relating to Shop No.9, Situate at New Commercial Complex, Palanisamier Road, Thirupattur, Vellore District passed by the 4th respondent and quash the same

WP No.21485 of 2017:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari call for the records of the impugned order in Na.Ka.No.1677/2016/A4, dated 19.6.2017 relating to Shop No.17, Situate at Quide Millath Commercial Complex Shop, Chairman Duraisamier Street, Thirupattur, Vellore District passed by the 4th respondent and quash the same

WP Nos.18163 To 18165 of 2017:-

Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari call for the records of the impugned order in Na.Ka.No. 1677/2016/ A4 dated 19.06.2017 relating to Shop No.37, 42, 38 respectively situate at New Commercial Complex Palanisamier Road, Thirupattur, Vellore District passed by the 4th respondent and quash the same

WP No.21472 To 21474 of 2017:-

Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari call for the records of the impugned order in Na.Ka. No.1677/ 2016/ A4 dated 19.06.2017 relating to Shop No.23, 20, 13 respectively situate at New Commercial Complex, Palanisamier Road, Tirupattur, Vellore District passed by the 4th respondent and quash the same.

For Appellant : M.V.Venkataseshan

For Respondents : Mr.R.Udhayakumar,
Additional Government Pleader

COMMON JUDGMENT

(Judgment of the Court was delivered by M.Sathyannarayanan.J)

The appellants are the writ petitioners. The appellants/writ petitioners, in the affidavit filed in support of the writ petitions, would aver that they are the lessees of the shop owned by the fourth respondent Municipality and the lease agreements have been entered into between them. The lease amounts were also fixed and the said amounts used to be revised once in three years. The appellants/writ petitioners would also claim that they were paying the lease amounts regularly, promptly, without any default and however, without any reason and all of a sudden, the fourth respondent increased the lease amount exorbitantly, that too, four times more than the actual lease amount, without adhering to the relevant norms and regulations especially, the market value.

2.The writ petitions were entertained and notices were ordered. In response to the same, counter affidavits were also filed by the fourth respondent wherein, they would aver among other things that in terms of G.O.Ms.No.92 Municipal Administration and Water Supplies Department dated 03.07.2017, the increased demand of lease amount was made and if the writ petitioners are not willing to pay the amount as demanded, it is open for the local body to go for public auction and after revision of the lease amount, opportunity was also accorded to the appellants/writ petitioners and since, they did not inclined to accept the same, public auction proceeding would be resorted.

3.The learned Judge after taking into consideration of the materials placed and also the decision rendered by this Court reported in 2014 [5] MLJ 129 [P.Muthusamy Vs. The State of Tamil Madu, rep. By its Secretary to Government, Municipal Administration and Water Supply Department and another], has held that it is for the appellants / writ petitioners to accept the offer made by the fourth respondent to pay the revised / enhanced rent for the reason that they are in occupation of the shops/premises in question for several years and if they are not inclined, the fourth respondent /Municipality shall go ahead with the auction and also granted time to exercise such an auction. If the appellants / writ petitioners are not inclined to pay the enhanced rent within a period of one month, the respondents were at liberty to go ahead with the auction and further observed that till such time, the writ petitioners may continue to pay the same rent and also noted that since there is possibility of challenge being made to the auction notice, granted a direction that once the auction notice is issued, the writ petitioners/appellants are deemed to have vacated the tenements and the respondents can enter the same with the help

of police personnel. The writ petitioners challenging the impugned common order dated 20.11.2017, passed in the writ petitions, had filed these writ appeals.

4.Mr.M.V.Venkataseshan, learned counsel appearing for the Appellants/ Writ petitioners would submit that admittedly the shops in occupation of the petitioners are only minimal and small extent and they are carrying on commercial activities only in a small scale and the income earned out of the said occupation is their sole source of livelihood and though they are willing to pay the enhanced lease amount/license amount, the fourth respondent / Municipality had increased the same manifold. Without assigning appropriate and sufficient reasons and prior to doing so, the Municipality should have put the writ petitioners/appellants on notice and elicited their response ; however, they did not do so.

5.It is the further submission of the learned counsel appearing for the Appellants that though the said Government Order does not contemplate an opportunity to put forth their views before the enhancement of lease amount, the principles of natural justice is inbuilt in the said Government Order and also in all fairness, the fourth respondent / Municipality ought to have put them on notice and therefore, prays for to set aside the impugned order passed, which is the subject matter of the challenge in these writ petitions with a further direction directing the fourth respondent to afford an opportunity to submit their response and thereafter, further directing the fourth respondent / Municipality to pass appropriate orders.

6.Per contra, Mr.R.Udhayakumar, learned Additional Government Pleader appearing for the respondents would submit that the terms of G.O. Ms.No.92 of Municipal Administration and Water Supply Department dated 03.07.2007, has been strictly complied with and admittedly, the petitioners are enjoying the benefits of the said Government Order and are remaining in possession for over 9 years by paying 15% of the enhanced lease amount/license amount once in three years and on the expiry of 9th year, it is open to the fourth respondent/Municipality to revise the same and accordingly, a committee was constituted and it has collected various materials and taken a fair decision to revise the rent / license amount purely to augment revenue for the local body and therefore, it cannot be faulted with. The learned Judge after taking into consideration all the relevant aspects and materials, had rightly reached the conclusion and therefore, prays for dismissal of the writ appeals.

7.This Court has carefully considered the rival submissions and also perused the materials placed before it.

8.The similarly placed writ petitioners namely, Kumarasamy, A.Gopi, T.V.Baskaran, Mustak Ahammed, A.Mohammed Gouse, aggrieved by the common order dated 20.11.2017, made in W.P.Nos.21466, 21467, 21469, 21470 and 21471 of 2017, had filed the Writ Appeals in W.A.Nos.660 to 664 of 2018 and the same were also ended in dismissal. In the said writ petitions, very same reasons have been assigned by the learned Single Judge and in fact, common orders were passed in the present writ petitions also on 20.11.2017.

9.Earlier, this Court, by way of common judgment dated 12.04.2018 in W.A.Nos.660 to 664 of 2018 had taken into consideration the case reported in P.Muthusamy Vs. The State of Tamil Nadu, rep. By its Secretary to Government, Municipal Administration and Water Supply Department and another (cited supra) and found that the fourth respondent has adopted a fair and transparent procedure and also gone strictly in conformity with the said Government Order while renewing the license/ lease amount and in the absence of allegation of mala fides or arbitrariness, this Court cannot interfere with the same.

10.This Court, in the light of the reasons assigned above coupled with the common judgment dated 12.04.2018 passed in W.A.Nos.660 to 664 of 2018, is of the considered view that there is no error apparent or infirmity in the impugned common order dated 20.11.2017 passed by the learned Single Judge and finds no merit in these writ appeals.

11.In the result, the Writ Appeals are dismissed confirming the impugned common order dated 20.11.2017. However, in the circumstances of the case, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

jbm

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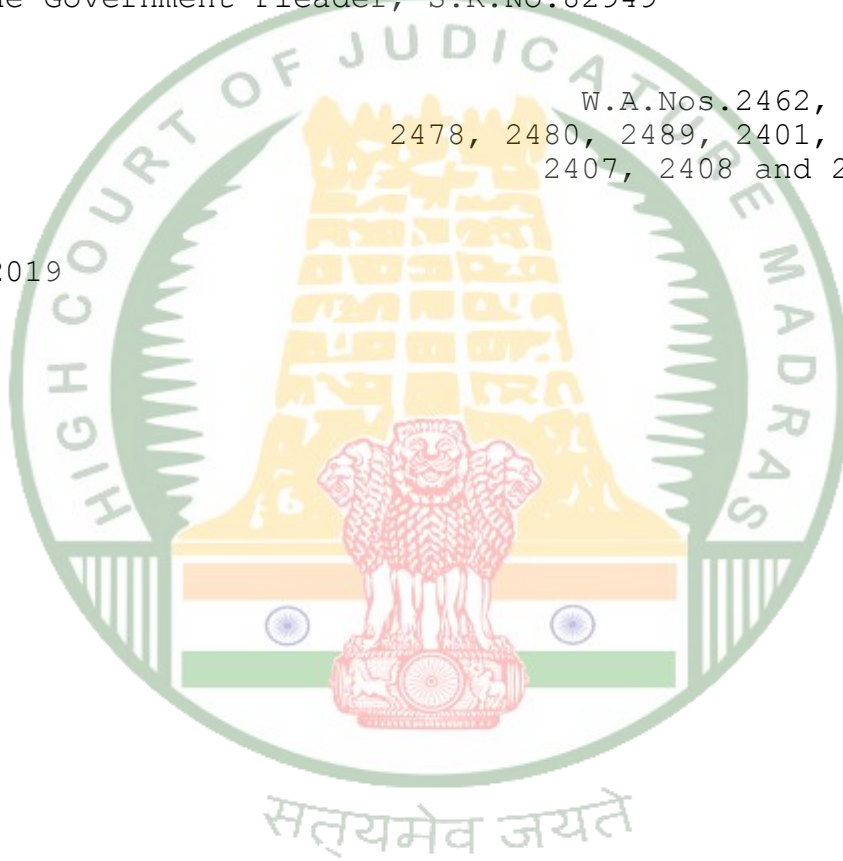
1. The Principal Secretary to Government
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3. Principal Director of Municipal Administration
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Vellore District, Vellore - 1.
4. The Commissioner,
Tirupattur Municipality,
Tirupattur, Vellore District.

+2cc to M.V.Venkataseshan, Advocate, S.R.No.82556 & 82557
+1cc to the Government Pleader, S.R.No.82949

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CP (CO)
CS/08/01/2019



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