

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.11.2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.27824 of 2018

&

W.M.P.No.32346 & 32348 of 2018

1.M.Shanmugam Sundaresan

2.Sumangali Textiles

3.P.Nirmala

4.N.Ezhilarasi

5.T.V.G.Buddar Rao

6.T.V.G.Palani Rao

7.G.Padmanaban

8.C.A.Ubayadullah

.... Petitioners

-Versus-

1.The Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai 600009.

2.The Commissioner,
Corporation of Vellore,
Vellore District.

सत्यमेव जयते

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the 2nd respondent relating to the impugned order / Notices dated 04.04.2017 in Na.Ka.No.19267/16/A1 in respect of the petitioners' shop No.22 at D-Block Nethaji Market, Shop No.24 at F-Block Nethaji Market, Shop No.22 at B-Block Nethaji Market, Shop Nos.4 and 7 at M.P.S. South, Shop No.16 at M.P.S. North, Shop Nos.2 and 27 at M.P.S. South, Shop Nos.3 and 26 at M.P.S. South and Shop No.7 at Arcot Road Vellore i.e., totally 11 shops situated at Vellore and to quash the same.

For Petitioners : Ms.Kamachi.D.
For Respondents : Mr.P.Shanthi, Standing
Counsel for R2
Mr.R.Govindasamy, Spl.
G.P. for R1

ORDER

This writ petition has been filed challenging the demand notices issued by the 2nd respondent Corporation.

2. According to the petitioners, they are lessees in respect of shops belonging to the 2nd respondent Corporation and they have been paying rent to the corporation regularly. Now, all of a sudden, the 2nd respondent Corporation had issued the demand notice directing the petitioners to pay the revised rent. It is this notice which are now under challenge in the instant writ petition.

3. The details of the leased out shops, old rent and the revised rent are as under:-

Sl. No.	Name of the Lessee	Array of parties in this writ petition	Shop No.	Old Rent	Revised Rent
1	M.Shanmugam M.Sundaresan	1st Petitioner	22	760	6300
2	M/s.Sumangali Textiles	2nd Petitioner	4 & 7	22135	46450
3	Ms.Nirmala	3rd Petitioner	24	649	5100
4	N.Ezhilarasi	4th Petitioner	16	5564	8330
5	G.Padmanaban	7th Petitioner	7	621	3600
6	C.A.Ubayadulla h	8th Petitioner	22	599	2750

4. The learned counsel appearing for the 2nd respondent corporation submitted that in a similar circumstance in respect of revision of rent in Arani Municipality case [K.Amjatha Bash and others v. State of Tamil Nadu and others - W.A.No.1806 of 2017 etc batch dated 25.07.2018], a Division Bench of this Court directed the Commissioner of Arani Municipality to form a Committee and re-fix the lease amount before revising the lease

amount. Following the above said judgement of the Division Bench of this court, now the 2nd respondent corporation has also formed a Committee and due opportunities will be provided to the petitioners to submit their respective case. However, as per the order of the Division Bench of this Court, the petitioners have to pay 50% of the enhanced rent till the order passed by the 2nd respondent. The learned standing counsel for the corporation has also produced a Xerox copy of the order passed by the Division Bench of this Court. The relevant portion of the order reads as follows:-

"7. Neither in the counter affidavit filed before us nor in the counter affidavit filed in the Writ Petition, the Municipal Commissioner, Arani Municipality has stated that the present occupants were put on notice of the proposed increase and an acknowledgment was obtained. Even though the letter dated 30.11.2016 does not contain a positive direction to the Municipality to hear the present occupants, while determining the rent for the future period by taking into account the present market value and the market conditions, we are of the considered opinion that in as much as the Government letter gives priority or a preference to the present occupants to pay the higher rent as determined by the Committee and continue to occupy the property in question, it would be in the interest of justice and fair play that the present occupants should be heard before re-fixation of the rent by the committee.

9. In the light of the above consensus reached between the parties, these Writ Appeals stand allowed, the orders of the learned Single Judge as well as the impugned notices of enhancement of rent will stand set aside. There will be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

10. We find the committee constituted by the Commissioner of the 5th respondent Municipality is unwieldy in as much as it contains 11 members and the enhancement of rent also is nearly 10 times the existing rent. The learned counsel appearing for the Municipality would upon instructions submit that the Municipality is prepared to reconstitute the Committee and refix the rent payable by the occupants after giving notice to the occupants. Upon the determination of rent by the Committee send notice to the appellants, who are in

occupation of shops belonging to the Municipality, the appellants shall decide as to whether they would continue to occupy by paying the higher rent or to vacate and hand over the possession of land.

13. In view of the above, the 5th respondent, the Commissioner of Arani Municipality is directed to form a smaller committee with lesser number of members in compliance with the directions of the Government contained in the circular dated 30.11.2016. The said Committee shall take up the fixation of the rent for the premises in the occupation of the appellants. The Committee shall also hear the appellants on the question of enhancement and thereafter fixed the rent payable for each shop or the commercial premises in occupation of the appellants. Such fixation of rent shall be made with effect from 01.07.2016. Upon such re-fixation, the appellants may choose either to continue in occupation by paying the rent as fixed by the Committee or to vacate and hand over the possession of the property to the local body."

5. Considering the facts and circumstances of the case and in view of the above judgement of the Division Bench of this Court, the impugned notices issued by the 2nd respondent corporation are set aside and the Committee is directed to fix the lease amount after hearing the petitioners as per the order of the Division Bench of this Court. Such fixation of rent shall be given effect from 01.07.2016. After fixation of the lease amount, it is for the petitioners to decide either to continue in occupation by paying the lease amount as fixed by the Committee or to vacate and hand over the possession of their respective property to the local body. Till then, the petitioners are directed to pay 50% of the enhanced lease amount as directed by the Division Bench of this Court.

6. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

kmk

To

1.The Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai 600009.

2.The Commissioner,
Corporation of Vellore,
Vellore District.

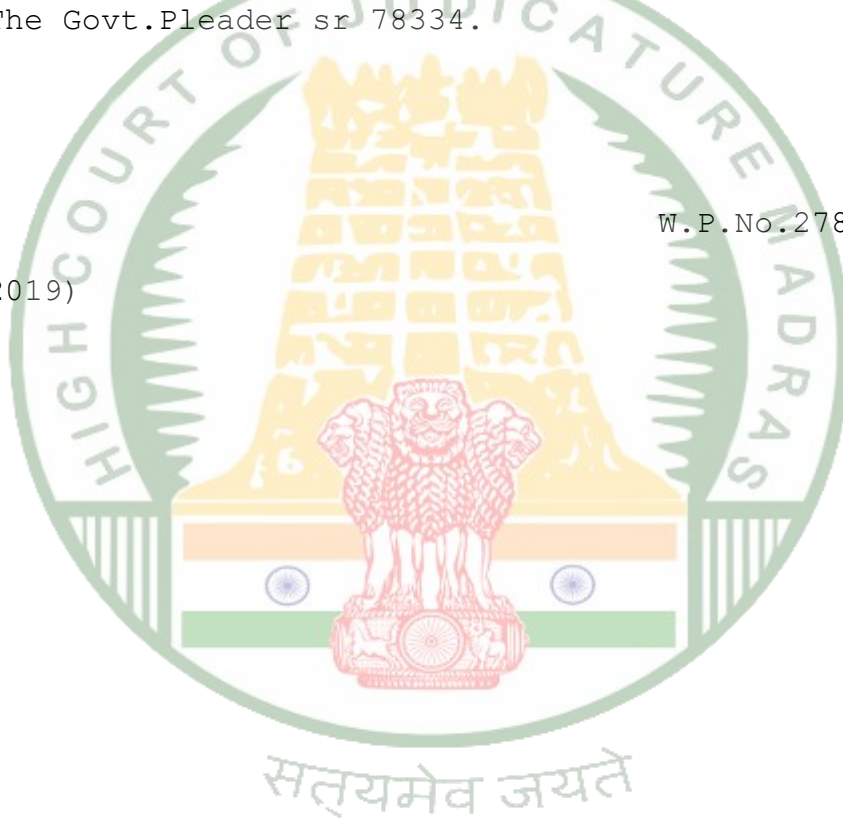
+1 CC to Ms.P.Shanthi, Advocate sr 77890.

+1 CC to M/s.D.K.Kamakshi, Advocate sr 78420.

+1 CC to The Govt.Pleader sr 78334.

W.P.No.27824 of 2018

SP(21/01/2019)



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