

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.10.2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P. 25264 of 2018 and W.M.P.s 29371 to 29376 of 2018
AND

W.P.25265 of 2018 and W.M.P.s 29374 to 29376 of 2018

W.P. 25264 of 2018

1. Christopher Nathan
 2. Mohammed Haroon
 3. Thomachan V.J.
 4. J.Lakshmana Kumar
 5. U.Ramesh
 6. J.Santhi
 7. J.Varadharajan
 8. R.Santhakumar
 9. J.Pradeep
 10. T.Saravanan
 11. U.Annapoorani
 12. D.Gautham
 13. D.Mahendran
 14. J.Karuppaiah
 15. C.V.Govindha Raj
- ... Petitioners

-Versus-

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai-600 009.

2. The Municipal Commissioner,
Ooty Municipality,
Nilgiris District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the impugned notice bearing Na.Ka.No.708/2016/A7, dt. 19.10.2016 and 04.06.2018 in respect of the petitioners' shop Nos.1/148, 2/149, 1/165, 16/657, 34/675, 20/770, 57/556, 15/656, 6/647, 7/156, 8/157, 11/652, 28/659, 24/665 and 24/523 at Market, Ooty, Shop Nos: 6/107 and 14/115 at New Market, Ooty, Shop No.10 at M.S.Line, Shop No.2 at Municipal Market Building and Shop No.1/642, UMC Market, i.e.

totally 20 shops situated at Ooty, on the file of the 2nd respondent and quash the same.
W.P. 25265 of 2018

1. Mohammed Haroon
2. S.Sivakumar
3. R.Santhakumar
4. T.Saravanan
5. U.Ramesh
6. S.Saranya
7. R.S.Saravanan
8. J.Lakshmana Kumar
9. L.Kokila
10. J.Santhi
11. S.Jayanthi

... Petitioners

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For Petitioner : Mr.V.Ramamoorthy for
Mr.D.Kamachi

For Respondents : Mr.M.Jothikumar,
Addl. Government Pleader for R1
: Mr.A.N.Thambidurai,
Special Government Pleader for
R2

C O M M O N ORDER

These writ petitions have been filed challenging the impugned notices issued by the 2nd respondent and to quash the

same.

2. The petitioners in both the Writ Petitions are lessees under the 2nd respondent Municipality. Admittedly, all the petitioners were lessees for more than 9 years and after the expiry of 9 years lease period, the 2nd respondent Municipality now issued a demand notice and revised the rent as per G.O.Ms.No.92, Municipal Administration and Water Supply department dated 03.07.2007 and made an offer to the petitioners to accept the rent, otherwise, the shops will be put into auction. Now, challenging the said impugned order, the present Writ Petition has been filed.

3. Mr.V.Ramamoorthy, learned counsel appearing for the petitioners contended that as per the G.O.Ms.No.92, dated 03.07.2007, after expiry of 9 years lease period, the Municipality has to revise the rent and to make an offer to the petitioners. Subsequently, the Commissioner of Municipal Administration, in and by his proceedings in Na.Ka.No.15316/2016/R3, dated 30.11.2016, directed all the Municipalities to form a Committee and the Committee should revise the rent based on the market value of the property, and the rent revised by the Committee was subject to the revision by the Zonal Monitoring Committee. But, in this case, without constituting a Committee, the Municipal Commissioner himself has exorbitantly revised the rent is in total violation of the Government Order and also without giving opportunity to the petitioners.

4. The 2nd respondent has filed the counter affidavit stating that the rent was revised based on the prevailing market rate, the data was collected by the Committee Members consisting of Manager, Revenue Officer, Town Planning Officer, Assistant Engineer and Sanitary Inspector from various parts of vicinity and reported to the office on 15.07.2016 and thereafter, the market value has been fixed. It is also admitted that before the circular issued by the Commissioner of Municipal Administration dated 30.11.2016, the market value has been ascertained from the nearby Municipal shops.

5. Mr.A.N.Thambidurai, learned counsel appearing for the 2nd respondent has fairly produced the copy of the order passed by the Commissioner of Municipal Administration in and by its proceedings in Na.Ka.No.708/2016/A7, dated 18.07.2016, wherein a Committee was constituted for revising the lease amount.

6. In the above circumstances, it is clear from the counter affidavit filed by the respondents as well as the proceedings of the 2nd respondent that on the date of revising the rent, no committee was formed and the lease amount was not revised as

contemplated in G.O.Ms.No.92 as well as as the circular issued by the 2nd respondent dated 30.11.2016.

7. In the above circumstances, without going to the merits of the case, the impugned notice issued by the 2nd respondent is set aside, and the matter is remanded back to the 2nd respondent, and the 2nd respondent is directed to revise the lease amount as per directions of the Committee duly constituted, after giving opportunity to the petitioners, and after hearing the objections, within a period of four weeks from the date of receipt of the copy of this order. If the petitioners are in arrears of original lease amount, the petitioners are directed to pay the arrears of lease amount within a period of four weeks from the date of receipt of the copy of this order.

8. In the result, these Writ Petitions are disposed of with the above direction. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

rpp

To

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai-600 009.

2. The Municipal Commissioner,
Ooty Municipality,
Nilgiris District.

+2cc to M/s.D.Kamachi, Advocate SR.No.73539

+1cc to Government Pleader SR.No.74306

W.P. 25264 of 2018 &
W.M.P.s 29371 to 29376 of 2018
and W.P.25265 of 2018 &
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GMV (19/11/2018)