

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order Reserved on : 11.12.2018

Order Pronounced on : 21.12.2018

CORAM :

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P. Nos. 28293, 28502, 28949, 28953, 28957, 28962, 28965, 28968, 28971, 28973, 28978, 28980, 29228, 28915, 29231, 29233, 29237, 29319, 29327, 29518, 29558, 29565, 29569, 29616, 29618, 29627, 29632, 29633, 29636, 29640, 31651 to 31653, 31657 to 31659, 31661, 31663, 31666 to 31668, 31670, 31827, 31834, 31835, 32274, 33260, 33266 & 33271 of 2018

and

W.M.P.Nos.32997, 33250, 33836 to 33838, 33840, 33843 to 33846, 33851, 33852, 33855, 33856, 33859, 33860, 33864, 33866, 33868, 33869, 33874, 33875, 33784, 34153, 34155, 34160, 34162, 34265, 34268, 34468, 34469, 34506, 34509, 34510, 34513, 34514, 34520 to 34522, 34525, 34526, 34586, 34590, 34595, 34597, 34600, 34602, 34607, 36892 to 36894, 36896 to 36898, 36900, 36901, 36902, 36904, 36906, 36907, 36909 to 36912, 37066, 37068, 37071, 37072, 37074, 37075, 37516, 37517, 38592, 38597 & 38604 of 2018

1 R.ASHOK KUMAR ... PETITIONER IN W.P.NO.28293 OF 2018
1 R.KUMAR ... PETITIONER in WP No.28502 of 2018
1 A.G.SAMPATH ... PETITIONER in WP No.28949 of 2018
1 MR.ASHOKEN ... PETITIONER in WP No.28953 of 2018
1 K.GUNASEKARAN ... PETITIONER in WP No.28957 of 2018
1 A.G.MATHIYAZHAN ... PETITIONER in WP No.28962 of 2018
1 SADIQ BASHA M.S. ... PETITIONER in WP No.28965 of 2018
1 T.SANJEEVI ... PETITIONER in WP No.28968 of 2018
1 C.MOHANRAJ ... PETITIONER in WP No.28971 of 2018
1 MR.KUSEALAR ... PETITIONER in WP No.28973 of 2018
1 P.PERUMANDI ... PETITIONER in WP No.28978 of 2018

1 G.M.VENKATESH ... PETITIONER in WP No.28980 of 2018
1 N.SENTHILKUMAR ... PETITIONER in WP No.29228 of 2018
1 D.CHANDRAN ... PETITIONER in WP No.28915 of 2018
1 P.SARAVANAN ... PETITIONER in WP No.29231 of 2018
1 S.SRIDHAR ... PETITIONER in WP No.29233 of 2018
1 ELANGO VAN ... PETITIONER in WP No.29237 of 2018
1 S.GANESAN ... PETITIONER in WP No.29319 of 2018
1 S.JAYACHANDRAN ... PETITIONER in WP No.29327 of 2018
1 J.VARALAKSHMI ... PETITIONER in WP No.29518 of 2018
1 MR. PUGZHALANTHI ... PETITIONER in WP No.29558 of 2018
1 S.VAITHIYALINGAM ... PETITIONER in WP No.29565 of 2018
1 MR. V. RAGHUPATHI ... PETITIONER in WP No.29569 of 2018
1 NEDUNCHEZHIAN ... PETITIONER in WP No.29616 of 2018
1 V. THANGAVELU ... PETITIONER in WP No.29618 of 2018
1 K. MARIMITHU ... PETITIONER in WP No.29627 of 2018
1 A. KUMAR ... PETITIONER in WP No.29632 of 2018
1 A. SUKUMARAN ... PETITIONER in WP No.29633 of 2018
1 V. ANANDAN ... PETITIONER in WP No.29636 of 2018
1 A. SUKUMARAN ... PETITIONER in WP No.29640 of 2018
1 R.RAMESH ... PETITIONER in WP No.31651 of 2018
1 P.NATARAJAN ... PETITIONER in WP No.31652 of 2018
1 K.MUTHU ... PETITIONER in WP No.31653 of 2018
1 R.DURAIRAJ ... PETITIONER in WP No.31657 of 2018
1 S.MANSOOR ... PETITIONER in WP No.31658 of 2018
1 B.MOORTHY ... PETITIONER in WP No.31659 of 2018

1 R.ARUMUGAM ... PETITIONER in WP No.31661 of 2018
1 M.KALINGARANI ... PETITIONER in WP No.31663 of 2018
1 V.SUNDARAM ... PETITIONER in WP No.31666 of 2018
1 S.RAMADOSS ... PETITIONER in WP No.31667 of 2018
1 C.KARTHIKEYAN ... PETITIONER in WP No.31668 of 2018
1 P.RAJI ... PETITIONER in WP No.31670 of 2018
1 A.G.RAJENDRAN ... PETITIONER in WP No.31827 of 2018
1 C.RAMAMURTHY ... PETITIONER in WP No.31834 of 2018
1 A.G.RAJENDRAN ... PETITIONER in WP No.31835 of 2018
1 T.MATHISEKAR ... PETITIONER in WP No.32274 of 2018
1 A.J.MOHAMED MEERAN ... PETITIONER in WP No.33260 of 2018
1 N.MUMTAJ ... PETITIONER in WP No.33266 of 2018
1 C.S.DURAIRAJ ... PETITIONER in WP No.33271 of 2018

Vs.

THE MUNICIPAL COMMISSIONER,
CUDDALORE MUNICIPALITY,
CUDDALORE, CUDDALORE DISTRICT. ... RESPONDENT IN ALL WPS

PRAYER in W.P.28293 of 2018 : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records in Na.Ka.No.14703/2016/A2 dated 31.07.2018 on the file of the respondent and quash the same.

WP No.28502 of 2018

call for the records and quash the notice issued by the respondent in his Na.Ka.No.14703/2016/A2 dated 31.7.2018

WP No.31651 of 2018 to 31653/18, 31657 to 31659/18, 31661, 31663 31666 to 31668, 31670, 32274, 33260, 33266, 33271/18: Writ of Certiorari, Calling for the entire records relating to the impugned order passed by the respondent in his proceedings Na.Ka.No. 14703/ 2016/ A2 dated 31.07.2018 and quash the same

WP No.31835 of 2018:

Calling for the records of the respondent pertaining in his proceedings bearing no. Na.Ka.No. 14703/ 2016/ A2 dated 31.07.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.08.2018 and to determine the new monthly rent without retrospective effect to the shop No. 1 Assessment No. 842 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner in the interest

WP No.31834 of 2018:

Calling for the records of the respondent pertaining in his proceedings bearing no. Na.Ka.No. 14703/ 2016/ A2 dated 31.07.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.08.2018 and to determine the new monthly rent without retrospective effect to the shop No. 5 Assessment No. 329 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner in the interest

WP No.31827 of 2018

Calling for the records of the respondent pertaining in his proceedings bearing no. Na.Ka.No. 14703/ 2016/ A2 dated 31.07.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.08.2018 and to determine the new monthly rent without retrospective effect to the shop No. 70 Assessment No. 438 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner in the interest

WP No.29640 of 2018

Call fro the records and quash the notice issued by the respondent in his Na.Ka.No.14703/2016/A2 dated 31.07.2018.

WP No.29636 of 2018

Call fro the records and quash the notice issued by the respondent in his Na.Ka.No.14703/2016/A2 dated 31.07.2018.

WP No.29633 of 2018

Call fro the records and quash the notice issued by the respondent in his Na.Ka.No.14703/2016/A2 dated 31.07.2018.

WP No.29632 of 2018

Call fro the records and quash the notice issued by the respondent in his Na.Ka.No.14703/2016/A2 dated 31.07.2018.

WP No.29627 of 2018

Call fro the records and quash the notice issued by the respondent in his Na.Ka.No.14703/2016/A2 dated 31.07.2018.

WP No.29618/18, 29616, 29228, 28915, 29231, 29233, 29237 of 2018

Call fro the records and quash the notice issued by the respondent in his Na.Ka.No.14703/2016/A2 dated 31.07.2018.

WP No.29569 of 2018

Calling for the records of the respondent pertaining in his proceedings bearing No.Na.Ka.No.14703/2016/A2 dated 31.07.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.08.2018 and to determine the new monthly rent without retrospective effect to the shop No.66 Assessment No.434 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner.

WP No.29565 of 2018

Calling for the records of the respondent pertaining in his proceedings bearing No.Na.Ka.No.14703/2016/A2 dated 31.07.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.08.2018 and to determine the new monthly rent without retrospective effect to the shop No.62 Assessment No.430 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner.

WP No.28949 of 2018

calling for the records of the respondent pertaining in his proceedings bearing No.Na.Ka.No.14703/2016/A2 dated 31.7.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.8.2018 and to determine the new monthly rent without retrospective effect to the shop No.71 Assessment No.439 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner in the interest

WP No.28953 of 2018

calling for the records of the respondent pertaining in his proceedings bearing No.Na.Ka.No.14703/2016/A2 dated 31.7.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.8.2018 and to determine the new monthly rent without retrospective effect to the shop No.68 Assessment No.436 as per the prevailing guideline of the

locality after granting a fair opportunity of being heard to the petitioner in the interest

WP No.28957 of 2018

calling for the records of the respondent pertaining in his proceedings bearing No.Na.Ka.No.14703/2016/A2 dated 31.7.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.8.2018 and to determine the new monthly rent without retrospective effect to the shop No.3 Assessment No.454 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner in the interest

WP No.28962 of 2018

calling for the records of the respondent pertaining in his proceedings bearing No.Na.Ka.No.14703/2016/A2 dated 31.7.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.8.2018 and to determine the new monthly rent without retrospective effect to the shop No.65 Assessment No.433 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner in the interest

WP No.28965 of 2018

calling for the records of the respondent pertaining in his proceedings bearing No.Na.Ka.No.14703/2016/A2 dated 31.7.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.8.2018 and to determine the new monthly rent without retrospective effect to the shop No.1 Assessment No.325 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner in the interest

WP No.28968 of 2018

calling for the records of the respondent pertaining in his proceedings bearing No.Na.Ka.No.14703/2016/A2 dated 31.7.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.8.2018 and to determine the new monthly rent without retrospective effect to the shop No.34 Assessment No.402 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner in the interest

WP No.28971 of 2018

calling for the records of the respondent pertaining in his proceedings bearing No.Na.Ka.No.14703/2016/A2 dated 31.7.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.8.2018 and to determine the new monthly rent without retrospective effect to the shop No.24 Assessment No.392 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner in the interest

WP No.28973 of 2018

calling for the records of the respondent pertaining in his proceedings bearing No.Na.Ka.No.14703/2016/A2 dated 31.7.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.8.2018 and to determine the new monthly rent without retrospective effect to the shop No.4 Assessment No.830 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner in the interest

WP No.28978 of 2018

calling for the records of the respondent pertaining in his proceedings bearing No.Na.Ka.No.14703/2016/A2 dated 31.7.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.8.2018 and to determine the new monthly rent without retrospective effect to the shop No.57 Assessment No.425 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner in the interest

WP No.28980 of 2018

calling for the records of the respondent pertaining in his proceedings bearing No.Na.Ka.No.14703/2016/A2 dated 31.7.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.8.2018 and to determine the new monthly rent without retrospective effect to the shop No.72 Assessment No.440 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner in the interest

WP No.29319 of 2018

calling for the records of the respondent pertaining in his proceedings bearing No.Na.Ka.No.14703/2016/A2 dated 31.07.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.08.2018 and to determine the new monthly rent without retrospective effect to the shop No.49 Assessment No.450 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner

WP No.29327 of 2018

calling for the records of the respondent pertaining in his proceedings bearing No.Na.Ka.No.14703/2016/A2 dated 31.07.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.08.2018 and to determine the new monthly rent without retrospective effect to the shop No.4 Assessment No.455 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner

WP No.29518 of 2018

calling for the records of the respondent pertaining in his proceedings bearing No.Na.Ka.No.14703/2016/A2 dated 31.07.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.08.2018 and to determine the new monthly rent without retrospective effect to the shop No.39 Assessment No.958 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner

WP No.29558 of 2018

calling for the records of the respondent pertaining in his proceedings bearing No.Na.Ka.No.14703/2016/A2 dated 31.07.2018 quash the same and to direct the respondent to consider the petitioners representation dated 31.08.2018 and to determine the new monthly rent without retrospective effect to the shop No.28 Assessment No.396 as per the prevailing guideline of the locality after granting a fair opportunity of being heard to the petitioner

APPEARANCE:

For Petitioner :

Mr.N.S.Nandakumar WP.28293/2018

R.Gururaj	WP.Nos.28502/18, 29616, 29618, 29627, 29632, 29633, 29636, 29640/18
V.Raghupathi	WP.Nos.28949, 28957, 28953, 28962, 28965, 28968, 28971, 28973, 28978, 28980, 29319, 29327, 29518, 29558, 29565, 29569, 31827, 31834, 31835/18
C.Prakasam	WP.Nos.29228, 28915, 29231, 29228, 29233, 29237, 31651, 31652, 31653, 31657, 31658, 31659, 31661, 31663, 31666, 31667, 31668, 31670, 32274, 33260, 33266, 33271/18

For Respondents :

Mr.B.Anand, Gov.Advocate W.P.28293/2018

A.N.Thambidurai WP.Nos.28949/18, 28953, 28957, 28962,
28965, 28968, 28971, 28973, 28978,
28980, 28915

A.S.Thambusamy WP.Nos.28502, 29228, 29231, 29233,
29237, 29319, 29327, 29518, 29558,
29565, 29569, 29616, 29618, 29627,
29632, 29633, 29636, 29640, 31651,
31652, 31653, 31657, 31658, 31659,
31661, 31663, 31666, 31667, 31668,
31670, 31827, 31834, 31834, 31835,
32274

B.Anand WP.Nos.33260, 33266, 33271/18
Government Advocate

C O M M O N O R D E R

These Writ Petitions have been filed challenging the order passed by the respondent Cuddalore Municipality revising the lease amount, as per G.O.Ms.No.92 Municipal Administration and Water Supply Department, dated 03.07.2007, and making offer to the petitioners for exercising their option for continuance of lease, by accepting the revised lease amount.

2. The main grievance of the petitioners in all the writ petitions is that while revising the lease amount, the respondent Municipality did not issue any notice to the petitioners and no enquiry was conducted and the respondent did not also follow the procedures contemplated under G.O.Ms.No.92 Municipal Administration and Water Supply Department, dated 03.07.2007. That apart, the enhancement is also highly excessive and it is not relatable to the market value prevailing in that area. The petitioners have also been directed to pay the revised lease amount from 01.07.2016 retrospectively, for which the respondent has no power.

3. The respondent Municipality has filed a common counter affidavit in all the writ petitions, stating that the petitioners in all the writ petitions, have occupied their respective shops in various periods from the year 1982, and now they are only paying meagre lease amount and the periodical enhancement of lease amount by the Municipality is also in small percentage. The lease amounts paid by the petitioners are not in consonance with the prevailing market rate with the locality, and all the petitioners have been in occupation of the shops

belonging to the respondent-Municipality for more than 9 years. As per the G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007 and subsequent instructions issued by the Commissioner of Municipal Administration, dated 30.11.2016, the Regional Director of Municipal Administration, Chengalpet in and by his proceedings dated 03.07.2018 in ROC No.3622/2017/R2 formed a Monitoring Committee consisting of the following members:-

1. Regional Director of Municipal Administration,
 2. Regional Executive Engineer, Chengalpet,
 3. Municipal Commissioner of the Municipalities Tambaram, Avadi.
 4. Manager of the Municipalities, Cuddalore, Tambaram, Chidambaram.
 5. Municipal Engineer of the Municipality - Tambaram.
 6. Town Planning Officer of the Municipality - Cuddalore, Tambaram.
 7. Revenue Officer of the Municipality - Cuddalore, Pallavaram, Tambaram.
 8. Revenue Inspector of the Municipality - Tambaram.
- for revising the lease amount. The respondent-Municipality obtained guideline value for the property from the Registration Authorities, and conducted enquiry regarding the market value of the property, and the guideline value fixed by the Public Works Department, after considering the age and location of the shops, fixed the market rate and based on that, the lease amount had been fixed by the Committee.

4. Subsequently, the respondent-Municipality also passed a resolution on 31.07.2018 to that effect. Based on the Resolution, the revised lease amount had been fixed, which is also approved by the said Committee. After arriving at the lease amount, the respondent-Municipality issued the impugned notice to all the lessees informing about the revision of lease amount, and called upon them to give consent for renewing the lease for a further period as per G.O.Ms.No.92 Municipal Administration and Water Supply Department, dated 03.07.2007. After receipt of the notice, all the petitioners have made individual representations on various dates from 30.08.2018, giving their objections for revision of lease amount. The said representations were considered and the respondent-Municipality, had passed individual orders rejecting the requests. As the lease amount has been revised as per the procedures contemplated under G.O.Ms.No.92 Municipal Administration and Water Supply Department, dated 03.07.2007, the revision of lease amount cannot be termed as excessive or exorbitant. The respondent-Municipality, for the purpose of providing facilities to the General public, have to augment income, revised the lease amount reasonably. The petitioners being lessees do not have any vested right and be in possession of the shops indefinitely.

5. It is further stated in the counter affidavit that the respondent-Municipality also conducted a public auction in respect of the newly constructed shops, which fetch more than the lease amount fixed by the Municipality. As the reasonable lease amount had been fixed by the respondent in consonance with G.O.Ms.No.92 Municipal Administration and Water Supply Department, dated 03.07.2007, the same has been revised as per law, and there is no illegality in it.

6. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents and perused the materials available on record.

7. The primordial argument advanced by the counsels appearing for the petitioners is that the respondent Municipality did not follow the procedures, while revising the lease amount, and the revised lease amount is also exorbitant, and it is not in consonance with the market rate prevailing in the respective locality.

8. The respondent had filed a detailed counter affidavit explaining the methods followed while revising the market value, wherein it is stated that, while revising the lease amount, all the aspects, like the market value of the property in each area, the rent fixed by the Public Works Department, the condition of the building and also the locality of the shops situated were taken into consideration. Thereafter, the Committee constituted for the purpose of revising the lease amount as per G.O.Ms.No.92 Municipal Administration and Water Supply Department, dated 03.07.2007 and fixed the revised lease amount, which was also subsequently approved by the Municipality by passing a Resolution.

9. Now, the law is well settled in this aspect that the petitioners being lessees have no vested right to continue in occupation perpetually and also they cannot challenge the revision of lease amount by the respondent Municipality. The Division Bench of this Court in the case of P.Muthusamy /vs/ State of Tamil Nadu reported in 2014 (5) MLJ 129, has held as follows :

20. The facts narrated above would clearly indicate that the petitioners have been given only a licence to run the shops. Just because the word "lease" has been mentioned, a licence cannot ipso facto be converted into a lease. Admittedly, the licence issued has a fixed terms. Therefore, the petitioners do not have a legal or a vested right to continue in occupation for ever. There is no doubt that the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act 1961, does not apply to the case on hand. The petitioners can very well participate in the proposed auction. In other words, they cannot

claim the right of a statutory tenant.

21. The object of letting out the shops is to collect more revenue for the respondent-Municipality, which is meant to be used for welfare measures. The Government Orders, as narrated above, are very specific about the purpose of auction followed by lease/licence. Since the transactions are commercial in nature, the petitioners, being licensees, cannot insist that the rent, which as they think, just and proper alone is liable to be paid. Since the licence is to be granted by the respondent-Municipality, while making offer, the said authority can impose its own terms in accordance with law. While accepting the said offer, the petitioners cannot insist that the condition attached therein cannot be imposed. A perusal of the Government orders referred to above as well as the orders impugned make it clear that the rent has been fixed based upon the prevailing market value and not otherwise. What has been given by way of extension to an existing licensee was only a concession. The subsequent extension has been made during the pendency of the writ petitions. The said decision was made in view of the undertaking given by the licensees. An undertaking was given in connection with the payment as well as on the withdrawal of the writ petitions. The Government orders also state that in the event of non compliance of the conditions imposed including the payment of appropriate rent, a licensee is liable to be removed. "

Another judgment of this Court in Tamil Nadu Municipal Shop Merchants Association and etc., Vs. State of Tamil Nadu reported in AIR 2000 Mad. 393, this Court has held as follows:

".... Lease in perpetually or extension or renewal without time limit amounts to lease in perpetually which is not permissible in law and in terms of the statutory provisions. This is not the intention of the statute and this will create a monopoly in favour of a person who has once taken the lease in an open auction. This apart it causes a loss, the local authority, when the property can be auctioned at much higher price. "

In the light of above judgment, now it is not open to the petitioner to content that the revision is exorbitant, and insist that the lease amount should be fixed as per their dictate.

10. Mr.Raghupathi, learned counsel for one of the petitioners relied upon a decision of Division Bench of this Court in W.A.No.1806 of 2017 dated 25.07.2018 and another

Division Bench of this Court in W.A.No.1012 of 2018 dated 28.04.2018 and submitted that before revising the rent, no opportunity was given to the petitioners and prayed that the matter may be remanded to the respondent-Municipality, and the respondent-Municipality may be directed to consider the objections of the petitioner before revising the lease amount.

11. Per contra, the learned counsel for the respondent-Municipality contended that after issuance of the impugned notice to the petitioners, all the petitioners have raised their objections individually and all the objections of the petitioners have been considered by the respondent-Municipality and individual orders have been passed on 24.09.2018 rejecting all those requests. In the said circumstances, no fresh opportunity is required to be given to the petitioners. The learned counsel also produced the order passed by the Municipality rejecting the request made by the petitioners.

12. In the judgment relied upon by the learned counsel for the petitioner in W.A.No.1806 of 2017 it is stated that the rent has been revised without forming a Committee as contemplated under G.O.Ms.No.92 Municipal Administration and Water Supply Department, dated 03.07.2007. Hence, the Division Bench of this Court directed the Municipality to form a Committee and revise the rent. So far the judgment in W.A.No.1012 of 2018, the Division Bench of this Court has held that the petitioner has no vested right to challenge the revision of rent. It only directed the petitioners to raise their objections and sent representations to the Municipality and the Municipality was directed to consider the representations and pass appropriate orders on merits in accordance with law whereas in the instant case, after issuance of the notice, all the petitioners have raised their individual objections and their objections were also considered by the respondent Municipality and the objections were rejected with reasons. Hence, now, the petitioners cannot ask for another opportunity to raise their objections.

13. So far as the last contention of the petitioners was that, already the respondent Municipality has renewed lease period upto 2019, and the petitioners are also paying the lease amount upto 2018, it is not open to the Municipality to direct the petitioners to pay the revised rent retrospectively from 01.07.2016, and so far as the part of the order directing the petitioner to revise the lease amount from 01.07.2016 is liable to be set-aside.

14. I find some force in the argument of the learned counsel for the petitioners. From a perusal of the records, in most of the cases, the lease had been renewed in the year 2016

for the period up to 31.03.2018, by revising the lease amount and the petitioner is also paying the revised lease amount. Now, after renewing the lease and also asking the petitioners to pay the revised lease amount, it is not open to the respondent direct them to pay the revised lease amount retrospectively from the 01.07.2016. Even G.O.Ms.No.92 Municipal Administration and Water Supply Department dated 03.07.2007, is not authorizing the respondent to collect the lease amount retrospectively. In the said circumstances, I am of the view that the respondent can revise the lease amount only prospectively and not retrospectively from the year 2016.

15. The impugned notice is only an offer made by the respondent-Municipality to the petitioners for paying the revised lease amount, and it is for them to accept or not. There is no compulsion on the part of the petitioners to accept the same. If the petitioners are not willing to accept the offer, it is always open to the Municipality to bring the properties for public auction. In the said circumstances, I find no merits in the contention in the writ petitions.

16. Accordingly, the writ petitions are partly allowed with a direction to the respondent-Municipality to revise the lease amount only prospectively from the year 2018. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

mrp

To
The Municipal Commissioner,
Cuddalore Municipality,
Cuddalore, Cuddalore District.

+38cc to Mr.V.Raghupathi, Advocate, S.R.No. 89306
+1cc to Mr.C.Prakasam, Advocate, S.R.No.89852
+2cc to Mr.P.Gururaj, Advocate, S.R.No. 89787
+1cc to Mr.A.S.Thambusamy, Advocate, S.R.No. 89642
+2cc to Mr.N.S.Nandakumar, Advocate, S.R.No. 89286, 89762

W.P.Nos.28293 etc.,
batch of 2018

JP (CO)
GN(04/01/2019)