



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2018

C O R A M

WEB COPY

THE HONOURABLE MR. JUSTICE V.BHARATHIDASANW.P. (MD) Nos. 1474 to 1481 of 2018andW.M.P. (MD) Nos. 1537 to 1552 of 2018

M.K.ABDUL KHADHAR JAILANI ... Petitioner in WP (MD) 1474/ 2018

P. KALIL REHUMAN ... Petitioner in WP (MD) 1475/ 2018

G.RAMESH ... Petitioner in WP (MD) 1476/ 2018

NAGOOR GANI ... Petitioner in WP (MD) 1477/ 2018

R.ZAHIR HUSSAIN ... Petitioner in WP (MD) 1478/ 2018

A.DOWLATH BEGAM ... Petitioner in WP (MD) 1479/ 2018

M.AYISA SIDIQUE ... Petitioner in WP (MD) 1480/ 2018

K.M.NAZERDEEN ... Petitioner in WP (MD) 1481/ 2018

Vs.

The Kodaikanal Municipality,
Rep. by its Commissioner,
Kodaikanal,
Dindigul District.

... Respondent
in all the petitions

Prayer in WP (MD) . 1474/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari to call for the records pertaining to the impugned notice in Na.Ka.No.6724/2016/A13 dated Nil. 11.2017 signed on 22.11.2017 on the file of the respondent pertaining to the petitioners shop namely Iron Box Shop No.6, Tax Assessment No.5001, Moonjikkal Bus Stop, Kodaikanal and quash the same as illegal.

**Prayer in WP(MD). 1475/ 2018 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari to call for the records pertaining to the Impugned Notice in Na.Ka.No.6724/2016/A13 dated Nil.11.2017 signed on 22.11.2017 on the file of the Respondent pertaining to the petitioners shop namely Iron Box Shop No.19, Tax Assessment No.5002, Moonjikkal Bus Stop, Kodaikanal and quash the same as illegal

Prayer in WP(MD). 1476/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari to call for the records pertaining to the impugned Notice in Na.Ka.No. 6724/2016/A13 dated Nil 11.2017 singed on 22.11.2017 on the file of the Respondent pertaining to the Petitioners shop namely Shop No.2, Tax Assessment No. 50303, Moonjikkal Water Tank Complex, Kodaikanal and quash the same as illegal.

Prayer in WP(MD). 1477/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari to call for the records pertaining to the Impugned Notice in Na.Ka.No.6724/2016/A13 dated nil.11.2017 signed on 22.11.2017 on the file of the Respondent pertaining to the petitioners shop namely Shop No.3, Tax assessment No.5301, Moonjikkal Water Tank Complex, Kodaikanal and quash the same.

Prayer in WP(MD). 1478/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari to call for the records pertaining to the impugned notice in Na.Ka.No.6724/2016/A13 dated Nil. 11.2017 signed on 22.11.2017 on the file of the respondent pertaining to the petitioners shop namely Shop No.4, Tax Assessment No.5007, Anna Salai, Kodaikanal and quash the same as illegal.

Prayer in WP(MD). 1479/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari to call for the records pertaining to the Impugned Notice in Na.Ka.No.6724/2016/A13 dated Nil.11.2017 signed on 22.11.2017 on the file of the Respondent pertaining to the petitioners shop namely Shop No.3, Tax Assessment No.5006, Anna Salai, Kodaikanal and quash the same as illegal

Prayer in WP(MD). 1480/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari to call for the records pertaining to the impugned Notice in Na.Ka.No. 6724/2016/A13 dated Nil 11.2017 singed on 22.11.2017 on the file of the Respondent pertaining to the Petitioners shop namely Shop No.2,



Tax Assessment No. 5005, Anna Salai, Kodaikanal and quash the same as illegal.

Prayer in WP(MD). 1481/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari to call for the records pertaining to the Impugned Notice in Na.Ka.No.6724/2016/A13 dated nil.11.2017 signed on 22.11.2017 on the file of the Respondent pertaining to the petitioners shop namely Shop No.1, Tax assessment No.5004, Anna salai, Kodaikanal and quash the same.

For Petitioner : Mr.T.Lajapathi Roy

For Respondent : Mr.T.S.Mohammed Mohideen
Standing counsel
(In all petitions)

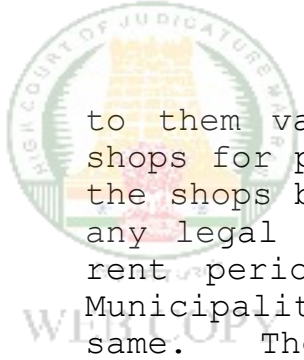
COMMON ORDER

Since the issue involved in all these writ petitions are one and the same, all the writ petitions are taken up together and disposed of by a common order.

2. According to the petitioners, the petitioners in all the writ petitions are the licensees in the shops owned by the respondent Municipality and they are paying the rent regularly. Now, by the impugned order, the respondent Municipality has enhanced the rent exorbitantly with retrospective effect from 01.04.2016 and directed the petitioners to pay the arrears of rent for renewing their licences. Aggrieved over the same, the petitioners have filed these present writ petitions.

3. The learned counsel appearing for the petitioners submitted that all the petitioners are regularly paying the rent fixed by the Municipality. Now, all of a sudden, without any notice, whatsoever, the respondent Municipality has revised the rent exorbitantly and also directed the petitioners to pay the revised rents from 01.04.2016. The petitioners are in occupation of petty shops and the rent now fixed by the respondent Municipality is disproportionate to the prevailing market value and also the rental value in that area and they are not in a position to pay the revised rent.

4. Per contra, the learned standing counsel for the respondent Municipality submitted that the petitioners are in possession of the shops more than 30 years and they are paying very meagre rent. Now, considering the current market value, as well as the rental value prevailing in the area, the respondent Municipality has revised the rent from 01.04.2016 and made an offer to the petitioner, if the petitioner is not willing to pay the revised rent, it is always open



to them vacate from the shops and the respondent will bring the shops for public auction. The petitioners are only the licensees of the shops belonging to the respondent Municipality, they do not have any legal right and the Municipality also entitled to revise the rent periodically for the purpose of augmented revenue to the Municipality and the petitioners have no right to challenge the same. The learned standing counsel further submitted that the petitioners have already appeared before the respondent Municipality and also given a consent for reviving the rent. Now, after giving their consent, it is not open to the petitioners to challenge the same.

5.I have considered the rival submissions and perused the records.

6. A perusal of the order passed by the respondent Municipality, it is not stated that on what basis the rent has been revised, apart from that, the petitioners are also directed to pay the raised rent retrospectively from 01.04.2016. Being the existing licensees the petitioners are entitled to know on what basis, the rent has been revised.

7. The learned counsel for the petitioner submitted that the petitioners have given consent only for revising the rent, but now, the Municipality has revised the rent exorbitantly without conducting any enquiry, the consent given by the petitioners cannot be considered, that they have agreed to pay any amount fixed by the respondents.

8. Considering the facts and circumstances, the petitioners are directed to appear before the respondent Municipality and raise their objections for the revision of rent within a period of two weeks from the date of receipt of a copy of this order. On filing such objections, the respondent Municipality is directed to consider the same and pass suitable orders within a period of four weeks, from the date of receipt of their objections. In the meantime, the petitioners are directed to pay the original rent as well as 50% of the enhanced, and continue to pay the same till the orders passed by the respondent Municipality.

9. Accordingly, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar



To

The Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

+8CC TO M/S.T.LAJAPATHI ROY, ADVOCATE, SR NOS.54128 TO 54135
+1CC TO M/S.T.S.MOHAMED MOHIDHEEN, ADVOCATE, SR NO.53780

W.P. (MD) Nos.1474 to 1481 of 2018
08.03.2018

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MS/SV-MMS/SAR-1/03.04.2018/5P.11C