



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE V. BHARATHIDASAN

W.P. (MD) No. 2089 of 2018

and

W.M.P. (MD) No. 2342 of 2018

WEB COPY

Tamilarasan

... Petitioner

Vs.

The Commissioner,
Devakottai Municipality,
Devakottai,
Sivagangai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned notice dated 16.08.2017 in Na.Ka.No.1896/2010/A1 issued by the respondent and the consequential demand notice dated 06.01.2018 issued by the respondent herein in respect of petitioner's shop premises, viz., Shop No.11 Devakottai Bus Stand shops, Devakottai, Sivagangai District and quash the same and consequently direct the respondent herein to renew the lease in respect of shop No.11, Devakottai Bus stand shops, Devakottai, Sivagangai District.

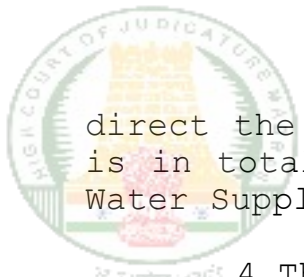
For Petitioner : Mr.A.Saravanan
For Respondent : Mr.H.Mohammed Imran,
Standing Counsel.

ORDER

The writ petition has been filed challenging the notice issued by the respondent directing the petitioner to pay the enhanced licence fee.

2.The grievance of the petitioner is that he is the lessees in respect of shop No.11 belongs to the respondent Municipality and he has been in possession and enjoyment of the same for a long number of years. Earlier, by the proceedings dated 04.10.2016, lease period has been extended for three years from 01.04.2016 to 31.03.2019. While renewing lease, the respondent has revised the lease amount as per G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007, and the petitioner was also agreed to pay the revised lease amount, till date he is continuously paying the revised lease amount. All of a sudden, now, the respondent Municipality has issued the impugned notice, once again revising the rent exorbitantly and directed the petitioner to pay the revised rent from 01.04.2017.

3.According to the petitioner, once the Municipality revised the rent as per G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007 and also renewed the lease upto 2019, now, all of a sudden, cannot revise the same exorbitantly and



direct the petitioner to pay retrospectively from April 2017, which is in total violation of G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007.

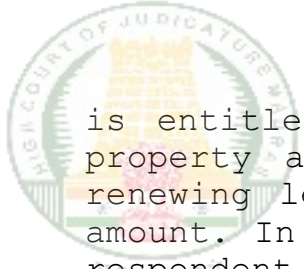
4.The learned counsel appearing for the petitioner would contend that once the respondent has revised the lease amount based on the market value and renewed lease for a period of three years as per G.O.Ms.No.92 dated 03.07.2007, now, it is not open to the respondent to revise the rent once again during the currency year of the licence period, that too without issuing any notice to the petitioner and retrospectively from 01.04.2017. The impugned notice also issued in violation of the principles of natural justice.

5.The learned Standing Counsel appearing for the respondent submitted that the petitioner was in possession and enjoyment of the shop for more than nine years and the lease amount has been periodically enhanced as per G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007. Now, by the proceedings dated 27.12.2016, the Director of Municipal Administration has constituted a Committee to revise the lease amount based on the market value of the property where nine years lease period expires. Based on the same, the respondent Municipality has constituted a seven member Committee and the Committee has considered individual cases and enhanced the rent with effect from 01.04.2017. Even though the the petitioner's lease has been renewed from 01.04.2016, the petitioner only directed to pay the enhanced lease amount from 01.04.2017. Since the petitioner failed to pay the revised rent, eviction notice has been issued. According to the respondent, the neighbouring shops in the same area are fetching more rent, than the amount paid by the petitioner. Since revision has been made as per G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007, the petitioner cannot raise any grievance.

6.The learned Standing Counsel appearing for the respondent would further submit that while renewing the lease, lease amount has been fixed without reference to the prevailing market value at that time. Subsequently, based on the instructions given by the Director of Municipal Administration, a seven member Committee has been constituted and the Committee after considering all the relevant materials including the market value of the property, now, revised the rent correctly, the respondent Municipality is only directing the petitioner to pay the revised rent from 01.04.2017 alone and not from 01.04.2016 and there is no error in the notices issued by the respondent.

7.I have considered the rival submissions made on either side and perused the entire materials available on record carefully.

8.It is an admitted case that now the petitioner has been in possession of the shop for more than nine years, and as per G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007, after expiry of nine years period, the respondent



is entitled to revise the rent based on the market value of the property and the existing licensees should be given priority in renewing lease, provided he is accepting to pay the revised lease amount. In the instant case, after expiry of nine years period, the respondent Municipality has revised the rent and also renewed the licence of the petitioner for further period of three years till 31.03.2019. But during the currency of the licence period, without issuing any notice whatsoever, now the respondent Municipality, has once again revised the lease amount. The petitioner does not have any vested right over the property belongs to the Municipality and as per G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007, he has liable to pay the revised lease amount as fixed by the respondent Municipality based on the market value of the property. But in the instant case, now, after revising the licence amount, the respondent Municipality, also renewed licence from 01.04.2016 to 31.03.2019. If at all the Municipality wants to revise the amount during the currency of the licence period, the respondent is expected to issue notice to the petitioner calling for his objections and after considering the objections, the respondent ought to have revised licence amount. But, admittedly, without issuing notice whatsoever and without hearing objections from the petitioner, the Municipality has revised the licence fee. Hence, the impugned notice has been issued in violation of the principles of natural justice.

9. In the above circumstances, as already demand notice has been issued by the Municipality, the above demand notice may be treated as show cause notice, and the petitioner is directed to give his objections for the same, and after receipt of the objections, the respondent Municipality is directed to consider the objections and pass fresh orders for revising the lease amount. The petitioner is directed to give his objections within a period of two weeks from the date of receipt of a copy of this order and thereafter, the respondent Municipality is directed to consider his objections and pass orders within a period of four weeks thereafter. Till the order passed by the respondent, the possession of the petitioner shall not be disturbed.

10. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

/True Copy/

Sub-Assistant Registrar

To
The Commissioner, Devakottai Municipality,
Devakottai, Sivagangai District.
+lcc to Mr.A.Saravanan, Advocate, SR.No.51433

Myr

<https://hservices.ecourts.gov.in/hservices/>
RL/SC/31/SV/MMS/SAR1/17/4/2018

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