



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.02.2018

Delivered on : 23.02.2018

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CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WP (MD) Nos.2737 to 2744

and

3006 to 3015 & 3017, 3521, 3522 of 2018

and

WMP (MD) Nos.2898 to 2905, 3161 to 3170

&

3182 and 3654 to 3657 of 2018

Sornakalai	... Petitioner in WP (MD) No.2737 of 2018
V.Ravindran	... Petitioner in WP (MD) No.2738 of 2018
S.Ramasamy	... Petitioner in WP (MD) No.2739 of 2018
Somasundaram	... Petitioner in WP (MD) No.2740 of 2018
V.Kannan	... Petitioner in WP (MD) No.2741 of 2018
P.Selvam	... Petitioner in WP (MD) No.2742 of 2018
P.Jeyaraman	... Petitioner in WP (MD) No.2743 of 2018
R.Venkatasubbu	... Petitioner in WP (MD) No.2744 of 2018
Arumugam	... Petitioner in WP (MD) No.3006 of 2018
Pugazhenthi	... Petitioner in WP (MD) No.3007 of 2018
Vijayan	... Petitioner in WP (MD) No.3008 of 2018
Sheik Dawood	... Petitioner in WP (MD) No.3009 of 2018
Sivakumar	... Petitioner in WP (MD) No.3010 of 2018
Rejena Begam	... Petitioner in WP (MD) No.3011 of 2018
Chithirai Selvan	... Petitioner in WP (MD) No.3012 of 2018
Sethuraman	... Petitioner in WP (MD) No.3013 of 2018
Arasappan	... Petitioner in WP (MD) No.3014 of 2018
Bose	... Petitioner in WP (MD) No.3015 of 2018
Sornalingam	... Petitioner in WP (MD) No.3017 of 2018
Soundaravalli	... Petitioner in WP (MD) No.3521 of 2018
Dhanapal	... Petitioner in WP (MD) No.3522 of 2018

Vs.

The Commissioner,
Devakottai Municipality,
Devakottai,
Sivagangai District.

... Respondent in all cases

Prayer in WP (MD) No. 2737/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus compelling for the records relating to the proceedings Na.Ka.No.1896/2010/A1 dated 16/08/2017 and 06/01/2018 in respect of Shop No.7, of the petitioner in daily market, Devakottai, on



the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A1 dated 04/10/2016.

Prayer in WP(MD)No. 2738/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records relating to the proceedings Na.Ka.No. 1896/2010/A1 dated 16.8.2017 and 6.1.2018 in respect of shop No. 8 of the petitioner in daily market, Devakottai, on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No. 1896/2010/A1 dated 4.10.2016.

Prayer in WP(MD)No. 2739/ 2018 :

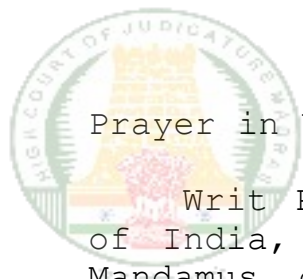
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings Na.Ka.No.1896/2010/A1 dated 16.8.2017 and 6.1.2018 in respect of shop No.6, of the petitioner in Bus Stand, Devakottai, on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A1 dated 4.10.2016.

Prayer in WP(MD)No. 2740/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus calling for the records relating to the proceedings Na.Ka.No.1896/2010/A1 dated 16/8/2017 and 6/1/2018 in respect of shop no.10, of the petitioner in daily market, Devakottai, on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A1 dated 4/10/2016.

Prayer in WP(MD)No. 2741/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings Na.Ka.No.1896/2010/A1 dated 16/08/2017 and 05/01/2018 in respect of Shop.No.4, of the petitioner in Thirupathur Road, Vadiyar Street, Devakottai, on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A1 dated 04/10/2016.



Prayer in WP(MD)No. 2742/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records relating to the proceedings Na.Ka.No. 1896/2010/A1 dated 16.8.2017 and 6.1.2018 in respect of shop No.11 of the petitioner in daily market, Devakottai, on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No. 1896/2010/A1 dated 4.10.2016.

Prayer in WP(MD)No. 2743/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings Na.Ka.No.1896/2010/A1 dated 16.8.2017 and 5.1.2018 in respect of shop No.3, of the petitioner in Thirupathur Road, Vadiyur Street, Devakottai on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A2 dated 4.10.2016.

Prayer in WP(MD)No. 2744/ 2018 :

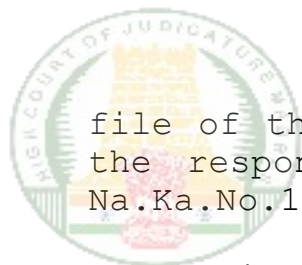
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings Na.Ka.No.1896/2010/A1 dated 16/8/2017 and 6/1/2018 in respect of shop no.19, of the petitioner in Bus stand, Devakottai on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A1 dated 4/10/2016.

Prayer in WP(MD)No. 3006/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus calling for the records relating to the proceedings Na.Ka.No.1896/2010/A1 dated 16.8.2017 and 6.1.2018 in respect of shop No.7, of the petitioner in Bus Stand, Devakottai on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A1 dated 4.10.2016.

Prayer in WP(MD)No. 3007/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records relating to the proceedings Na.Ka.No.1896/2010/A1 dated 16.08.2017 and 06.01.2018 in respect of Shop No.4 of the Petitioner in Bus Stand, Devakottai on the



file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A1 dated 04.10.2016.

Prayer in WP(MD)No. 3008/ 2018 :

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Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records relating to the proceedings Na.Ka.No.1896/2010/A1 dated 16.08.2017 and 06.01.2018 in respect of Shop No.8 of the Petitioner in Bus Stand, Devakottai on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A1 dated 04.10.2016.

Prayer in WP(MD)No. 3009/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records relating to the proceedings Na.Ka.No.1896/2010/A1 dated 16.08.2017 and 06.01.2018 in respect of Shop No.3 of the Petitioner in Bus Stand, Devakottai on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A1 dated 04.10.2016.

Prayer in WP(MD) No. 3010/ 2018 :

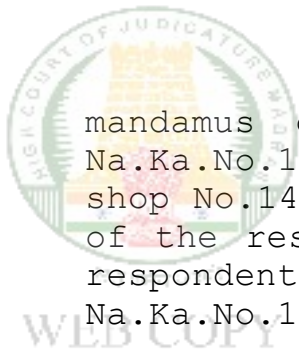
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus calling for the records relating to the proceedings Na.Ka.No.1896/2010/A1 dated 16.8.2017 and 6.1.2018 in respect of shop No.5, of the petitioner in Bus Stand, Devakottai on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A1 dated 4.10.2016.

Prayer in WP(MD)No. 3011/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records relating to the proceedings Na.Ka.No.1896/2010/A1 dated 16.08.2017 and 06.01.2018 in respect of Shop No.8 of the Petitioner in Thirupathur Road, Vadiyar Street, Devakottai on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A1 dated 04.10.2016.

<https://hdservices.courts.gov.in/hdservices/> Prayer in WP(MD)No. 3012/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified



mandamus calling for the records relating to the proceedings Na.Ka.No.1896/2010/A1 dated 16.8.2017 and 6.1.2018 in respect of shop No.14, of the petitioner in Bus Stand, Devakottai on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A1 dated 4.10.2016.

Prayer in WP(MD)No. 3013/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records relating to the proceedings Na.Ka.No.1896/2010/A1 dated 16.08.2017 and 06.01.2018 in respect of Shop No.9 (IDSMT) of the Petitioner in Bus Stand, Devakottai on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A1 dated 04.10.2016.

Prayer in WP(MD)No. 3014/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus calling for the records relating to the proceedings Na.Ka.No.1896/2010/A1 dated 16.8.2017 and 6.1.2018 in respect of shop No.1, (office side) of the Thirupathur Road, Devakottai on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A1 dated 4.10.2016.

Prayer in WP(MD)No. 3015/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records relating to the proceedings Na.Ka.No.1896/2010/A1 dated 16.08.2017 and 06.01.2018 in respect of Shop No.10 of the Petitioner in Bus Stand, Devakottai on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A1 dated 04.10.2016.

Prayer in WP(MD)No. 3017/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings Na.Ka.No. 1896/2010/A1 dated 16.8.2017 and 6.1.2018 in respect of shop No. 6, of the petitioner in Thirupathur Road, Devakottai, on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No. 1896/2010/A1 dated 4.10.2016.



Prayer in WP(MD)No. 3521 and 3522 of 2018 :

Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings Na.Ka.No.1896/2010/A1, dated 16/08/2017 and 6/1/2018 in respect of shop No.12 and 2, of the petitioner in Bus stand, Devakottai on the file of the respondent and quash the same and consequently direct the respondent to collect the rent as per his proceedings in Na.Ka.No.1896/2010/A1 dated.04/10/2016.

For Petitioner : Mr.S.Sivathilakar

For Respondent : Mr.Mohammed Imran

(in all cases)

COMMON ORDER

The writ petitions have been filed challenging the notices issued by the respondent directing the petitioners to pay the enhanced rent/licence fee.

2.Since the issue involved in these writ petitions is one and the same, these writ petitions are disposed of by a common order.

3.The grievance of the petitioners is that they are the lessees in respect of various shops belong to the respondent Municipality and they have 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 petitioners were also agreed to pay the revised lease amount till date, they are continuously paying the revised lease amount. All of a sudden, now, the respondent Municipality has issued the impugned notices, once again revising the rent exorbitantly and directed the petitioners to pay the revised rent from 01.04.2017.

4.According to the petitioners, 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, the respondent cannot revise the same exorbitantly and direct the petitioners 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.



5.The respondent Municipality has filed counter affidavit stating that the petitioners were in possession and enjoyment of the shops 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 each case and enhanced the rent with effect from 01.04.2017. Even though the the petitioners' lease have been renewed from 01.04.2016, the petitioners only directed to pay the enhanced lease amount from 01.04.2017. Since the petitioners failed to pay the revised rent, eviction notices have been issued. According to the respondent, the neighbouring shops in the similar areas are fetched more rent, than the amount paid by the petitioners. Since revision has been made as per G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007, the petitioners cannot raise any grievance.

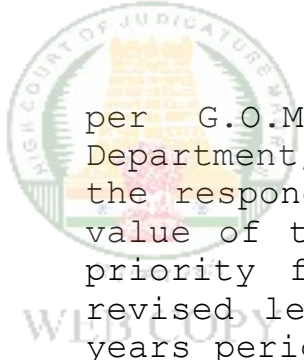
6.The learned counsel appearing for the petitioners would contend that once the respondent has revised the lease amount based on the market value and renewed lease for a period of three years as per G.O.Ms.No.92 dated 03.07.2007, now, it is not open to the respondent to revise the rent once again during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

7.The learned counsel appearing for the respondent would 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 petitioners 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.

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

<https://hcservices.ecourts.gov.in/hcservices/>

9.It is an admitted case that now the petitioners have been in possession of the shops 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 for renewing lease, if they are 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 lease of the petitioners 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. Even though the petitioners do 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, they are 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 lease amount, the respondent Municipality, also renewed lease from 01.04.2016 to 31.03.2019. If at all the Municipality wants to revise the lease amount during the currency of the licence period, the respondent is expected to issue notice to the petitioners calling for their objections and after considering the objections, the respondent ought to have revised lease amount. But, admittedly, without issuing notice whatsoever and without hearing objections from the petitioners, the Municipality has revised the licence fee. Hence, the impugned notices have been issued in violation of the principles of natural justice.

10. In the above circumstances, since already demand notices have been issued by the Municipality, the above demand notices may be treated as show cause notices and the petitioners are directed to give their 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 petitioners are directed to give their 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 their objections and pass orders within a period of four weeks thereafter. Till the order is passed by the respondent, the possession of the petitioners shall not be disturbed.

11. With the above direction, these writ petitions are disposed of. No costs. Consequently, WMP(MD)Nos.2898 to 2905, 3161 to 3170 & 3182 of 2018 are closed.

Sd/-

Assistant Registrar(RTI)



To

The Commissioner,
Devakottai Municipality,
Devakottai,
Sivagangai District.

+6cc to Mr.S.Sivathilakar, Advocate Sr.No. 50738, 50110, 50111,
50735, 50113, 50736
+3cc to Mr.H.Mohammed Imran, Advocate Sr.No.50125, 50127, 50126

MJ

VB/KK/SAR4/14/03/2018/9P/11C

Common order made in
WP (MD) Nos.2737 to 2744 and
3006 to 3015 & 3017 of 2018
and 3521 & 3522 of 2018
23.02.2018