



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. (MD) Nos. 2837 to 2846 of 2018

and

W.M.P. (MD) Nos. 3009 to 3018 of 2018

M.Thillai Arunachalam	: Petitioner in WP (MD) No. 2837/2018
V.Janaki	: Petitioner in WP (MD) No. 2838/2018
S.B.Senthil Kumar	: Petitioner in WP (MD) No. 2839/2018
N.M.Nandakumar	: Petitioner in WP (MD) No. 2840/2018
M.K.Alagiri	: Petitioner in WP (MD) Nos. 2841 to 2843/2018
S.Chokkalingam	: Petitioner in WP (MD) No. 2844 & 2845/2018
M.Vijayakumar	: Petitioner in WP (MD) No. 2846/2018

-Vs-

Madurai Corporation,
Through its Executive Authority,
The Commissioner having its Office
at Arignar Anna Maaligai,
Madurai.

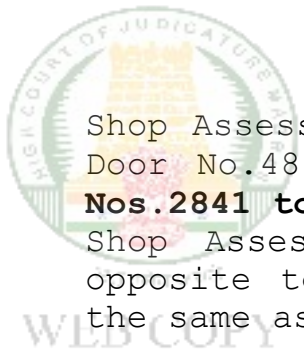
... Respondent in all WPs

Prayer in WP (MD) No. 2837/2018:

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned notice dated Nil on the file of the respondent pertaining to the petitioner's shop Assessment No. 6570064, Shop No. 618, Janci Rani Park Nagaikadai, West Avani Moola Street, Madurai-1 and quash the same as illegal.

Prayer in WP (MD) No. 2838 to 2846/2018:

Writ Petitions are filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records pertaining to the impugned notice dated Nil on the file of the respondent pertaining to the petitioner's shop Assessment No. 6570043, Shop No. 607, shop Assessment No. 6570036, Shop No. 603, Jansi Rani Park, Nagaikadai, West Avani Moola Street, Madurai-1 (**WP (MD) Nos. 2838 & 2839/2018**) shop Assessment No. 6820013, Door No. 148, opposite to Arasamara Pillaiyar Koil, Kamarajar Salai, Madurai - 9 (**WP (MD) No. 2840/2018**) shop Assessment No. 6450053, Door No. E-21, shop Assessment No. 6450054, Door No. E-22, Shop Assessment No. 6450055, Door No. E-23,



Shop Assessment No.6450044, Door No.47, Shop Assessment No.6450045, Door No.48, in Bharathiyar Shopping Complex, Madurai Town **(WP (MD) Nos.2841 to 2845/2018)**

Shop Assessment No.6420141, Door No.357, near Jansi Rani Park, opposite to (Y.M.C) Madurai Town in **(WP (MD) No.2846/2018)** and quash the same as illegal.

For Petitioner : Mr.R.Janakiramulu
For Respondent : Mr.R.Murali,
Standing Counsel
(In all writ petitions)

COMMON ORDER

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

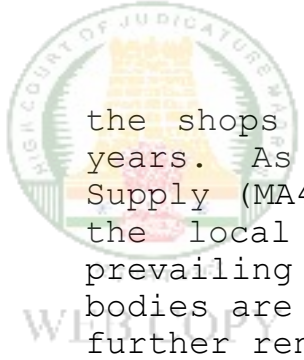
2. According to the petitioners, they are all lessees under the respondent Corporation for various shops within the city of Madurai for the past 9 years. As per G.O.(Ms)No.92, Municipal Administration and Water Supply (MA4) Department, dated 03.07.2007, they are entitled to renew the lease on payment of the enhanced amount fixed by the respondent Corporation. Now, the respondent Corporation has revised lease amount exorbitantly, and directed the petitioners to pay the revised lease amount. In the above circumstances, these writ petitions have been filed.

3. The learned counsel appearing for the petitioners submitted that the revised lease amount is highly exorbitant and already they have made objections to the respondent Corporation to revise the rent. But the Corporation without revising the rent directed the petitioners to pay the enhanced rent fixed by them.

4. On the other hand, the learned Standing Counsel appearing for the respondent submitted that after expiry of nine years period, the respondent Corporation has revised the rent as per G.O.(Ms) No.92, Municipal Administration and Water Supply (MA4) Department, dated 03.07.2007, after following the procedures. Now the respondent Corporation made an offer to the petitioners, and sought for their consent for renewal. If the petitioners are not willing to pay the revised rent, they have to vacate the shops, enabling the Corporation to bring the shops for public auction.

5. I have heard the learned counsel appearing for the petitioners and the learned Standing Counsel appearing for the respondent and also perused the materials available on record carefully.

6. Even though the petitioner claiming as lessees under the Corporation, actually the petitioners are only licensees, and only given licence to run the shop. Now, they have been in possession of



the shops belong to the respondent / Corporation for more than 9 years. As per the G.O.(Ms)No.92, Municipal Administration and Water Supply (MA4) Department, dated 03.07.2007, after expiry of 9 years, the local body is entitled to revise the rent based on the prevailing market value, and after revising the rent, the local bodies are supposed to make an offer to their existing licensees for further renewal of licence for a period of 3 years. In the event of the existing licensees are not willing to accept the same, then the local body can bring the properties for public auction. Now, in the instant case, as per G.O.(Ms)No.92, Municipal Administration and Water Supply (MA4) Department, dated 03.07.2007, the respondent Corporation has revised the licence fees and made an offer to the petitioners. If the petitioners are interested in renewal of licence, they can accept the offer made by the respondent Corporation, and they have no right to question the revision of licence fees, and the petitioners cannot claim any legal or a vested right over the properties belong to the respondent Corporation.

7.A Division Bench of this Court in ***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 forever. 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 commercials in nature, the petitioners, being licensees, cannot insist that the rent, which as they think, just and proper alone is liable to be paid.....".

8.In such circumstances, the petitioners now cannot question the licence fees revised by the respondent Corporation. If the petitioners are willing to accept the offer made by the respondent Corporation, they can submit their consent before the respondent Corporation, and get the licence renewed, if they are not willing to accept the offer, the petitioner should necessarily vacate shops enabling the corporation to bring the shops for public auction.

9.In the above circumstances, if the petitioners are willing to pay the revised the licence fees, the petitioners are at liberty to approach the respondent / Corporation, within the period of four weeks from the date of receipt of a copy of this order and in the



event of the petitioners are giving their consent, the respondent Corporation is directed to consider the same, and pass suitable orders for renewing the licence, otherwise, it is open to the respondent to evict the petitioners, and bring the shops for public auction.

WEB COPY

10. Accordingly, with the above observation, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To

The Executive Authority,
Madurai Corporation,
Commissioner having its Office
at Arignar Anna Maaligai, Madurai.

+ 9 CC TO Mr.R.JANAKI RAMULU, ADVOCATE IN SR No. 50351 to 50359
+ 1 CC TO Mr.R.MURALI, ADVOCATE IN SR No. 50302

MYR
TE/KKR/SAR-4 : 19/03/2018 : 4P/12C

W.P(MD)Nos.2837 to 2846 of 2018
21.02.2018