



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.(MD) Nos.5859 to 5868 of 2018
and
WMP(MD)Nos.5730 to 5746 of 2018

S.KANNAN	... Petitioner in WP(MD). 5859/ 2018
M.KAJENDIRAN	... Petitioner in WP(MD). 5860/ 2018
P.BALASUNDARAM	... Petitioner in WP(MD). 5861/ 2018
T.ARASAKUMAR	... Petitioner in WP(MD). 5862/ 2018
P.ARIVALAGAN	... Petitioner in WP(MD). 5863/ 2018
R.Boomibalagan	... Petitioner in WP(MD). 5864/ 2018
L.Sundararajan	... Petitioner in WP(MD). 5865/ 2018
R.Ramaraaj	... Petitioner in WP(MD). 5866/ 2018
M.MUTHU	... Petitioner in WP(MD). 5867/ 2018
P.Backialakshmi	... Petitioner in WP(MD). 5868/ 2018

- Vs. -

THE COMMISSIONER,
ARUPPUKOTTAI MUNICIPALITY,
ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT. ... Respondent in WP(MD)Nos.5859 to
5868/ 2018

Common Prayer in WP(MD). 5859 to 5868/ 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 of the impugned notice dated 12.05.2017 in Na.Ka.No.10714/2014/A1 passed by the respondent Municipality in so far as the petitioner concern and quash the same and direct the respondent to revise the monthly rent after determining the market value by adopting a valid procedure by giving opportunity to the petitioner.



For Petitioner
For Respondent

: Mr.P.Santhoshkumar
: Mr.N.Dilipkumar
Standing Counsel
(In all WPs)

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COMMON ORDER

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

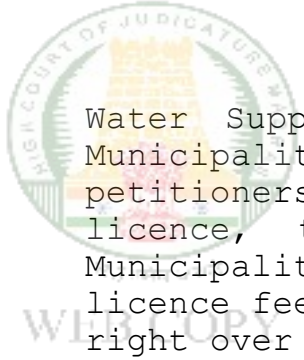
2. These writ petitions have been filed challenging the notice issued by the respondent Municipality, making an offer to the petitioners for renewal of licence, after expiry of nine years licence period.

3. According to the petitioners, they are all the lessees of various shops located in old bus stand of respondent Municipality for the past 9 years and they are paying licence fee regularly. Now, after the expiry of nine years period, the respondent Municipality, has arbitrarily revised the licence fee and directed the petitioners to pay the revised licence fee. Challenging the same, these writ petitions have been filed.

4. Heard Mr.P.Santhoshkumar, learned counsel appearing for the petitioners and Mr.N.Dilip Kumar, learned counsel for the respondent.

5. The learned Standing Counsel appearing for the respondent submitted that after expiry of nine years period, the respondent Municipality 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 Municipality has made an offer to the petitioners, and sought their consent for renewal. Apart from that, the petitioners did not pay the arrears of licence fee from 01.04.2016 onwards and the petitioners, being the licensees cannot dictate terms to the Municipality.

6. Even though the petitioners claiming as lessees under the Municipality, actually the petitioners are only licensees, and only given licence to run the shops. They have been in possession of the shops belong to the respondent / Municipality 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 Municipality has revised the licence fee 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 Municipality, 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 Municipality.

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 Municipality. If the petitioners are willing to accept the offer made by the respondent Municipality, they can submit their consent before the respondent Municipality, and get the licence renewed, if they are not willing to accept the offer, the petitioners should necessarily vacate shops enabling the Municipality to bring the shops for public auction.

9.In the above circumstances, if the petitioners are willing to pay the revised licence fees, the petitioners are at liberty to approach the respondent / Municipality, 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 Municipality is directed to consider the same, and pass suitable orders for renewal of licence, otherwise, it is open to the respondent to evict the petitioners, and bring the shops for public auction.



10. With the above observation, these writ petitions are dismissed. No costs. Consequently, WMP(MD) Nos. 5730 to 5746 of 2018 are closed.

Sd/-

Assistant Registrar (Crl. side)

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/True Copy/

Sub Assistant Registrar

To

THE COMMISSIONER,
ARUPPUKOTTAI MUNICIPALITY,
ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT.

+1cc to M/S.N.Dilipkumar, Advocate SR.No. 56508

+10ccs to M/S.P.Santhoshkumar, Advocate SR.No. 57097

W.P. (MD) Nos. 5859 to 5868 of 2018

mj

JM/SKN RSK/SAR 2/17.04.2018/4P/13C