



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2018

WEB COPY

C O R A M

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

W.A. (MD) .Nos.725, 726 and 730 of 2018
and
C.M.P. (MD) .Nos. 4230, 4231, 4232, 4233, 4281 and 4282 of 2018
and
W.P (MD) Nos.2842, 2843 and 2841 of 2018

M.K.Alagiri

.. Appellant in all W.As

Vs.

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

.. Respondent in all W.As

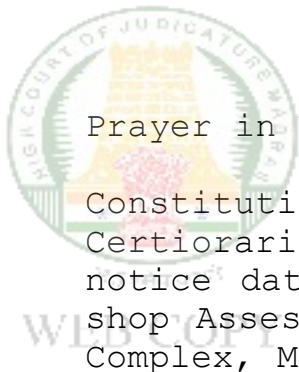
Common Prayer: Appeals filed under Clause 15 of the Letters Patent Act against the orders dated 21.2.2018 made in W.P.Nos.2842, 2843 and 2841 of 2018 by this court and to set aside the same.

Prayer in WP(MD)No. 2842/ 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 dated Nil by the respondent pertaining to the petitioners shop Assessment No.6450054, Shop No.E-22, in Bharathiyar Shopping complex, Madurai Town and quash the same as illegal.

Prayer in WP(MD)No. 2843/ 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 dated Nil on the file of the respondent pertaining to the petitioners shop Assessment No.6450055, Door No.E-23, in Bharathiyar Shopping Complex, Madurai Town and quash the same as illegal.



Prayer in WP(MD)No. 2841/ 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 dated Nil by the respondent pertaining to the petitioners shop Assessment No.6450053, Door No.E-21, in Bharathiyar Shopping Complex, Madurai Town and quash the same as illegal.

In all Writ Appeals:

For Appellant	: Mrs.P.Bagyalakshmi
For Respondent	: Mr.R.Murali

COMMON JUDGMENT

[Judgment of the Court was made by M.M.SUNDRESH, J.]

Since the issue involved in the present writ appeals are one and the same, all the writ appeals are taken up together and disposed of in the similar way.

2.The appellant is the licensee of respective shops. The impugned order was challenged before the learned Single Judge with respect to the enhancement of rent fixed on retrospective effect namely dated 01.08.2016. The learned Single Judge dismissed the writ petitions. Aggrieved over the same, these writ appeals have been filed.

3.On 26.04.2018, this Court was pleased to pass the following order:-

"3.There shall be an order of interim stay on condition that the appellant shall make payment of the enhanced rent from September 2017 till this date within one week from the date of receipt of copy of this order and also continue to pay the enhanced rent till the disposal of the writ appeals. The appellant is also given liberty to give a representation to the respondent within a period of two weeks from the date of receipt of copy of this order, raising all the issues raised in the writ appeals and the respondent shall decide the same on merits and in accordance with law."

4.The learned counsel appearing for the appellant submitted that there cannot be any retrospective enhancement of fees payable unilaterally and further submitted that there is no difficulty in paying the rent prospectively from September 2017 onwards. In fact, the appellant has paid the above amount and complied with the interim order.



5.The learned counsel appearing for the respondent submitted that inasmuch as the Corporation has got power to enhance the fees, the writ appeals have to be dismissed.

6.There are two issues before us. One is with respect to enhancement made retrospectively. Second is with respect to the power of enhancement. There is no quibble over the fact that the respondent does have power but it cannot be done with retrospective effect. Therefore, any enhancement can also be made from 01.09.2017 onwards.

7.In such view of the matter, the writ appeals stand allowed in part by setting aside the orders of the learned Single Judge and the impugned order with respect to retrospective enhancement is concerned. Accordingly, we make it clear that the appellant is bound to pay the enhanced rent from 01.09.2017 onwards. The fact that the appellant has complied with the interim order is also taken note of. This judgment is passed without prejudice to the right of the respondent to place the property for auction, because what is given is only the licence of the shop. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar (CS-III)

+ 1 CC TO Mr.R.MURALI, ADVOCATE IN SR No. 77517

VS

TE/RP/SAR-3 : 24/08/2018 : 3P/2C

W.A. (MD) .Nos.725, 726 and 730 of 2018
06/08/2018