

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.32620 of 2007 and
M.P.No.1 of 2007

Erode District Co-operative Printing
Works Limited
rep. by its Special Officer,
Periyar Nagar,
Erode.

...Petitioner

Vs

1. The Chairman/Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-35.
 2. The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
E.V.N. Salai,
Surampatti Nesal Road,
Erode-9.
 3. The Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai. Respondents
- (3rd respondent suo motu impleaded as per
the order of this Court dt.11.3.2019)

Prayer:- Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus,
directing the 2nd respondent to pass orders after enquiry and
fix rent and may demand as per the direction made by this
Court in W.P.No.19557/2004 dated 4.4.2006.

For Petitioner : Mr.M.Liagat Ali

For Respondents : Mr.V.Anandhamurthy,
Standing Counsel

O R D E R

The Writ Petition has been filed by the Special Officer,
Erode District Co-operative Printing Works Limited, Periyar
Nagar, Erode, seeking to issue a Writ of Mandamus, to
consider their case for passing orders fixing the monthly

rent for the buildings occupied by them as per the direction made by this Court in W.P.No.19557/2004 dated 4.4.2006.

2. Learned Counsel appearing for the petitioner submitted that the Erode District Co-operative Printing Works Limited is housed in T.S.No.598/1 and 2, 909/3, 913/1, 2A of Erode Housing Unit from 18.06.1987. Since the 2nd respondent, namely, the Executive Engineer and Administrative Officer, Tamil Nadu Housing Board, Erode-9 has leased out the Community Hall to the petitioner to run the Co-operative Printing Works by an order dated 19.6.1987, since then, the Printing Press is functioning in the tenanted premises with several employees. The original rent fixed by the 2nd respondent was Rs.5000/- p.m. and the advance was Rs.50,000/-. After paying the advance, the petitioner occupied 1635 sq.ft. with around vacant land. From July, 1990, the monthly rent was raised from Rs.5,000/- to Rs.5,750/- at 15% enhanced rent. Then, from June 1993 onwards, instead of raising the rent at 15% for every three years, the 2nd respondent suo-motu raised rent at 10% enhanced for every year. Therefore, the petitioner was unable to pay the enhanced rent due to large scale competition from computerised printing works and the difficulty in getting orders, as a result, the petitioner's printing press is also running in loss. In the meanwhile, the employees working in the petitioner's Printing Press are also demanding huge salary and they have also approached the Labour Court. In view of the above development, the petitioner was unable to pay even 10% increased rent. However, they have been paying the enhanced rent at Rs.13,561/- from June 2001 till date.

3. The learned Counsel for the petitioner further submitted that as per G.O.No.135, Municipal Administration and Water Supply Department dated 13.7.1994, the rent should be increased only at 15% for a block period of 3 years as per the guidelines of the Supreme Court. On the other hand, the respondents are demanding enhanced rent at the rate of 10% every year. Therefore, the petitioner filed W.P.No.19557/2004 seeking to direct the respondents to enhance the rent only for every three years not for every year. This Court by order dated 04.04.2006 while disposing of the said writ petition has held as follows:

''3. Mr.D.Veerasekaran, learned counsel appearing for the Housing Board admits that prior to the passing the impugned order, no show cause notice was given to the writ petitioner. Therefore, it is clear to our mind that the impugned order is in violation of principles of natural justice. Accordingly, the impugned order

is quashed reserving the liberty of the respondent to issue a show cause notice to the writ petitioner, as to why the rent existing at the relevant point of time should not be enhanced; if so by what percentage; asking for an explanation from the writ petitioner and then, awaiting the response within a time to be fixed by them, the respondents can pass an appropriate order in accordance with law.'

Now the grievance of the petitioner is that till date, the respondents have not considered the aforesaid direction issued by this Court. Hence the present Writ Petition has been filed.

4. A detailed counter affidavit has been filed by the 2nd respondent.

5. Learned Standing Counsel appearing for the respondents submitted that the petitioner has occupied 15695 sq.ft. of land in the prime location of Erode City on the basis of the agreements dated 14.05.1998, 04.10.2000 and 29.10.2001 in which it has been specified that once in 3 years the rent would be increased at 10% in every year from June 1993. Although there was a Government Order in G.O.Ms.No.8, Housing Urban Development Department dated 05.01.1993, making enhancement of rent by 5% only for residential buildings and 10% for non-residential buildings, now one more Government Order in G.O.No.135, Municipal Administration and Water Supply Department dated 13.7.1994 has been issued, the said Government Order No.135 cannot be applied to the petitioners building. The reliance made by the petitioner citing the said Government Order is wholly untenable and unjustifiable. On the other hand, in respect of enhancement of monthly rent, only the G.O.Ms.No.8, Housing Urban Development Department, dated 05.01.1993 will be applicable and as per the said Government Order, the respondents are entitled to fix the enhanced rent by 10% every year as the petitioner is using the place for commercial purposes. Further, when the Housing and Urban Development Department has issued the G.O.Ms.No.8 dated 05.01.1993, without challenging the correctness of the said Government Order, the petitioner cannot invoke the G.O.No.135, Municipal Administration and Water Supply Department dated 13.7.1994 which is nowhere connected to the petitioner and the respondents are not even bound by the said Government Order.

6. Now the issue before this Court is whether the G.O.Ms.No.8, Housing Urban Development Department dated 05.01.1993 or the G.O.No.135, Municipal Administration and

Water Supply Department dated 13.7.1994 to be adopted for fixing the enhanced rent to the buildings occupied by the petitioner Printing Press which has to be decided by the Secretary to Government, Housing and Urban Development Department. Since the Housing and Urban Development Department having not been impleaded, this Court suo motu impleaded the Secretary to Government, Housing and Urban Development Department, Fort St. George, Chennai as 3rd respondent.

7. In view of all the above, the 3rd respondent, namely, the Secretary to Government, Housing and Urban Development Department, is directed to consider the question of applicability of the Government Order as to whether G.O.Ms.No.8, Housing Urban Development Department dated 05.01.1993 or the G.O.No.135, Municipal Administration and Water Supply Department dated 13.7.1994, can be applied for the purpose of fixing the enhanced monthly rent on the petitioners buildings. The 3rd respondent is given three months time to decide the applicability of the Government Order. In the meantime, the petitioner is directed to continue the payment of rent as the petitioner is a Co-operative Society.

8. With the above observation and direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Chairman/Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-35.

2. The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
E.V.N. Salai,
Surampatti Nesal Road,
Erode-9.

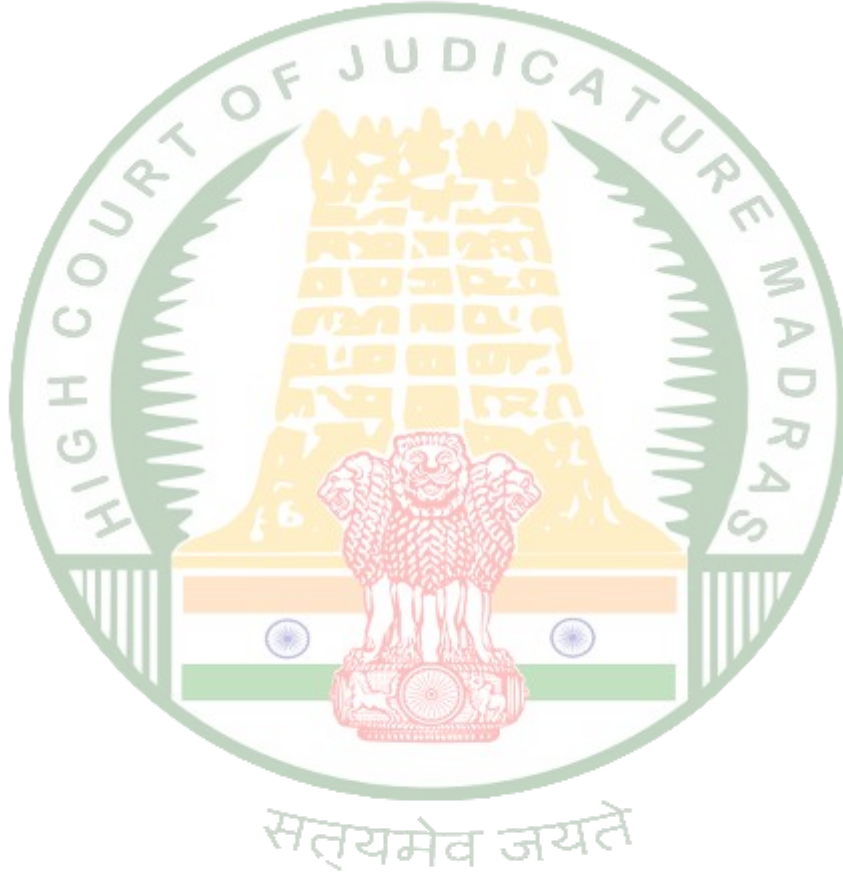
3. The Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai.

+1cc to Mr.V.Anandhamurthy , Advocate SR.No. 23094

+1cc to Mr.M.Liagat Ali , Advocate SR.No. 22435

W.P.No.32620 of 2007

A.SK(28/05/2019)



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