

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No.1397 of 2019

&

C.M.P.No.9639 of 2019

R.Ashok Kumar

...Appellant

-vs-

The Municipal Commissioner,
Cuddalore Municipality,
Cuddalore, Cuddalore District.

...
Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent against the common order of this Court in W.P.No.28293 of 2018 etc., batch dated 21.12.2018.

Prayer in W.P.No.28293:

Writ Petition filed under Article 226 of the Constitution of India Praying to issue a Writ of certiorari to call for the records in Na.Ka.no.14703/2016/AZ dated 31.07.2018 on the file of the Respondent and quash the same.

For appellant : Mr.N.S.Nanda Kumar

For respondent : Mr.A.S.Thambuswamy

JUDGMENT

(Judgment of the Court was delivered by T.S.Sivagnanam, J.)

This appeal by the writ petitioner is directed against the common order in W.P.No.28293 of 2018 etc., batch dated 21.12.2018.

2. We have heard Mr.N.S.Nandakumar, learned counsel for the appellant and A.S.Thambuswamy, learned counsel for the respondent/Municipality.

3. The writ petition filed by the appellant in W.P.No.28293 of 2018 was dismissed along with batch of cases vide common order dated 21.12.2018. The prayer sought for in the writ petitions was to set aside the demand issued by the respondent/municipality dated 31.07.2018 demanding the enhanced lease rent/license fee in respect of premises which was licensed to the appellant to carry out his hotel business.

4. The appellant's case was raised upon Government Order in G.O.Ms.No.92 Municipal Administration, Water Supply Department Dt. 03.07.2007 and it was contended that there was no basis for increasing the lease rent/license fee that too enormously and the appellant was not informed as to how the enhanced lease rent/licence fee was computed. The learned Single Bench in our view, rightly dismissed the writ petition and while doing so took note of the decision of the Division Bench decision in the case of P.Muthusamy Vs. State of Tamil Nadu reported in (2014) 5 MLJ 129 and other decision. In fact, the learned writ Court was considerate and directed that the revision of rent shall be perspective from 2018. Merely accepting respondent/municipality is the owner of the premises, that does not mean that they cannot demand fair rent at market rate especially when the municipal premises are situated in important places in various cities and towns.

5. The Division Bench of this Court has held that the power to be exercisable in terms of G.O.Ms.No.92 dated 03.07.2007 is discretionary and the respondent/municipality cannot be compelled to renew the fee/licence periodically. Furthermore, in all the decisions it has been held that the power exercisable in terms of G.O.Ms.No.92 dated 03.07.2007 leads to arbitrariness and ultimately amounts to illegality.

6. Thus, for the above reasons, we find the appellant has not made out any good grounds for interfering with the order passed by the learned writ Court.

7. Accordingly, the writ appeal fails and dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mrm/ssb

To

The Municipal Commissioner,
Cuddalore Municipality,
Cuddalore, Cuddalore District.

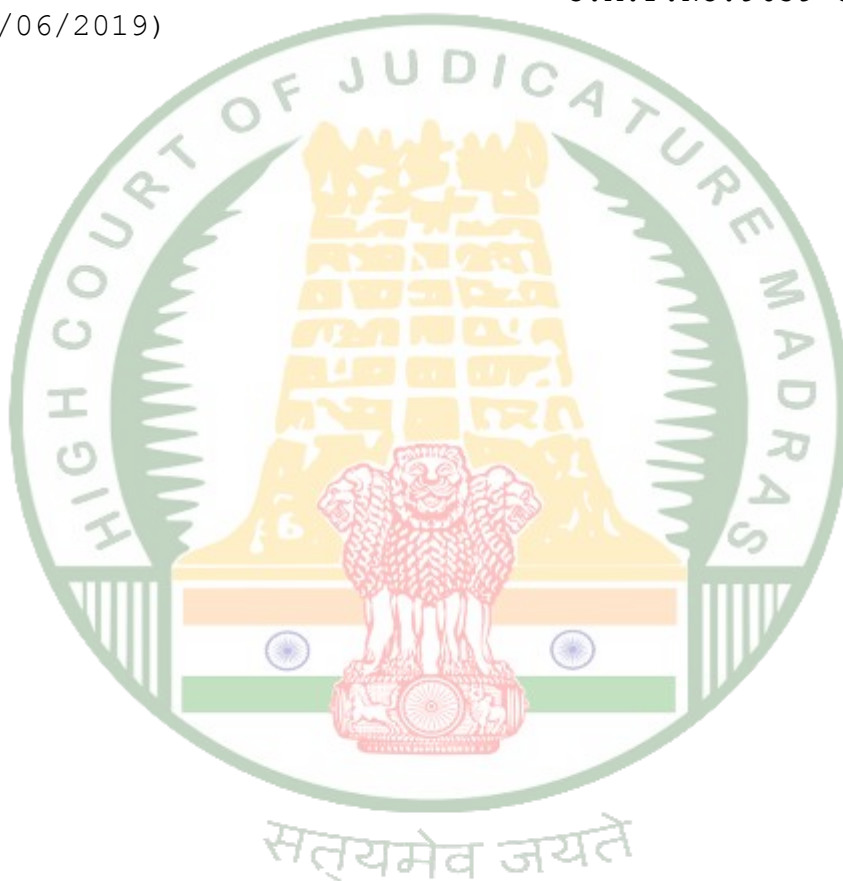
+1cc to Mr.N.S.Nanda Kumar , Advocate SR.No. 36971

Writ Appeal No. 1397 of 2019

&

C.M.P.No.9639 of 2019

A.SK(24/06/2019)



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