

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.06.2019

PRONOUNCED ON : 24.06.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.9425 of 2019 and
W.M.P.No.9998 of 2019

J.Jebasingh

...

Petitioner

Vs

1.The District Collector,
Nilgiris,
Nilgiris District.

2.The Executive Officer,
Town Panchayat,
Kothagiri,
Nilgiri District.

... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus calling for the records pertaining to the impugned order passed by the second respondent in Na.Ka.No.500/2019/A1 dated 20.03.2019 and to quash the same and consequently, direct the second respondent to accept the lease amount of Rs.18,417/0 as per Notice No.163 of 2018 dated 12.07.2018.

For petitioner : Mr.S.Joel
For Respondents : Mr.N.Inbanathan,
Additional Government Pleader

ORDER

Seeking to call for the records pertaining to the impugned order passed by the second respondent in Na.Ka.No.500/2019/A1 dated 20.03.2019 and to quash the same and consequently, direct the second respondent to accept the lease amount of Rs.18,417/0 as per Notice No.163 of 2018 dated 12.07.2018, the petitioner is before this Court with this writ petition.

2.Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3.The petitioner herein, who is a physically challenged person was allotted a shop in the bus stand complex at Kothagiri, on preferential basis by the second respondent vide order in Na.Ka.No.57/2015/g3 dated 04.09.2015, pursuant to the order passed by this Court in W.P.No.9436 of 2015 dated 31.03.2015. The rent for the shop had been fixed @ Rs.18,720/- per annum. While so, on 12.07.2018, the second respondent has issued a notice to the petitioner herein demanding a rental arrears demanding

Rs.18,417/- as annual rent for the year 2018-2019. In the mean while, the second respondent has also considered revision of rent and passed a resolution on 22.11.2018 to increase the rent @ Rs.9/- per square feet for temporary shop and Rs.14/- per square feet for permanent shops. Subsequently, the second respondent has issued notice to the petitioner herein demanding Rs.58,713/-, being the revised rent, on the basis of the revision in rent, pursuant to the panchayat resolution.

4.Despite the said demand, the petitioner has tendered only Rs.18,500/- on 18.03.2019. Therefore, on 20.03.2019, after giving credit to the said amount, the second respondent has raised demand for the balance amount of Rs.40,213/- to be payable within three days. The said demand notice is under challenge, in this writ petition.

5.The second respondent herein has filed a counter wherein, it is stated as below:-

“4.It is submitted that Daily Shandy Shop No.122 belongs to Kothagiri Town Panchayat was leased out to Mr.J.Jebasingh, the petitioner herein for the period 2016- 2017 for an amount of Rs.16,708/- and the said lease amount was increased to Rs.17,540/- for the year 2017- 2018. It is submitted that the petitioner was paying the lease amount accordingly.

5. It is submitted that the Director of Town Panchayats, Chennai during his personal inspection on 21.04.2018 instructed the Town Panchayat to increase the lease amount for the shops owned by the Town Panchayat so as to increase the income for the town panchayat. Accordingly, the Special Officer/Assistant Director of Town Panchayats, Ootacamund was requested by this respondent to permit the Town Panchayat to increase the lease rent fixed for the shops owned by the Town Panchayat and to fix the monthly rent instead of yearly rent from the Financial year 2017-2018. The Special Officer/Assistant Director of Town Panchayat, Ootacamund instructed this respondent to have a meeting with the Merchants Association and to arrive at a conclusion in this regard.

6. It is submitted that on that basis, a meeting was held with the Kothagiri Market Merchants Association in this regard. Finally, the said Association in their letter dated 27.10.2018 requested to fix the rent for the permanent shops as Rs.12/- per sq.foot and for the temporary shops as Rs.7/- per sq.ft. Taking into consideration the request and the necessity to increase the income of the Town Panchayat, this Town Panchayat passed a Resolution on 22.11.2018 in Resolution No.160 by fixing the monthly rent for the permanent shops as Rs.14/- per sq.ft and Rs.9/- per sq.ft for the temporary and vacant place shops for the year 2018-2019.

7. It is submitted that as per the rent amount fixed stated above, the Annual rent for the shop No.365 was fixed as Rs.49,248/- and the GST amount was fixed as Rs.8,865/- and

usage charge as Rs.600/- in total the amount was fixed as Rs.58,713/- and the same was accepted by the petitioner vide his agreement dated 19.12.2018. But the petitioner sent a demand draft for Rs.18,500/- towards the rent for the year 2018- 2019 for the shop No.365. Hence, he was directed to pay the balance amount of Rs.40,213/- vide this office Lr.Na.Ka.500/2019/A dated 20.03.2019. At this stage, the petitioner has filed the present Writ Petition.

8.It is submitted that even though the petitioner was intimated by this respondent that the Annual rent for the shop No.365 was fixed as Rs.58,713/- and he had also accepted the same through the agreement dated 19.12.2018, knowing sent a demand draft for Rs.18,500/- and this itself is violation of the agreement condition. However, the petitioner was directed to pay the balance amount, on a lenient manner.”

6.In the course of the argument, the learned Additional Government Pleader appearing for the respondents has also furnished the consent letter given by the petitioner herein, for the enhanced rent. The copy of the said letter was given to the learned counsel for the petitioner to verify from his Client, 'whether the petitioner has given consent for enhancement of rent' and 'whether the consent letter was signed by the petitioner'.

7.On 20.06.2019, the petitioner was also present before this Court. The execution of the consent letter denied by the petitioner. He contends

that, it was not signed by him. The petitioner and the second respondent have Landlord and Tenant relationship. The lease executed in the year 2015 been expired and the revised rent has been fixed after due resolution by the panchayat. The petitioner cannot take advantage of the demand notice dated 12.07.2018 made by the second respondent, for the year 2018-2019. Having agreed to pay the enhanced rent, the petitioner herein is estopped from challenging the same. Hence, the writ petition is dismissed. It is made clear that the said revised rent shall be applicable only with prospective effect from April 2019 onwards. No costs. Consequently, connected miscellaneous petition is closed.

jbm

Index: Yes/no

Speaking order/non speaking order

24.06.2019

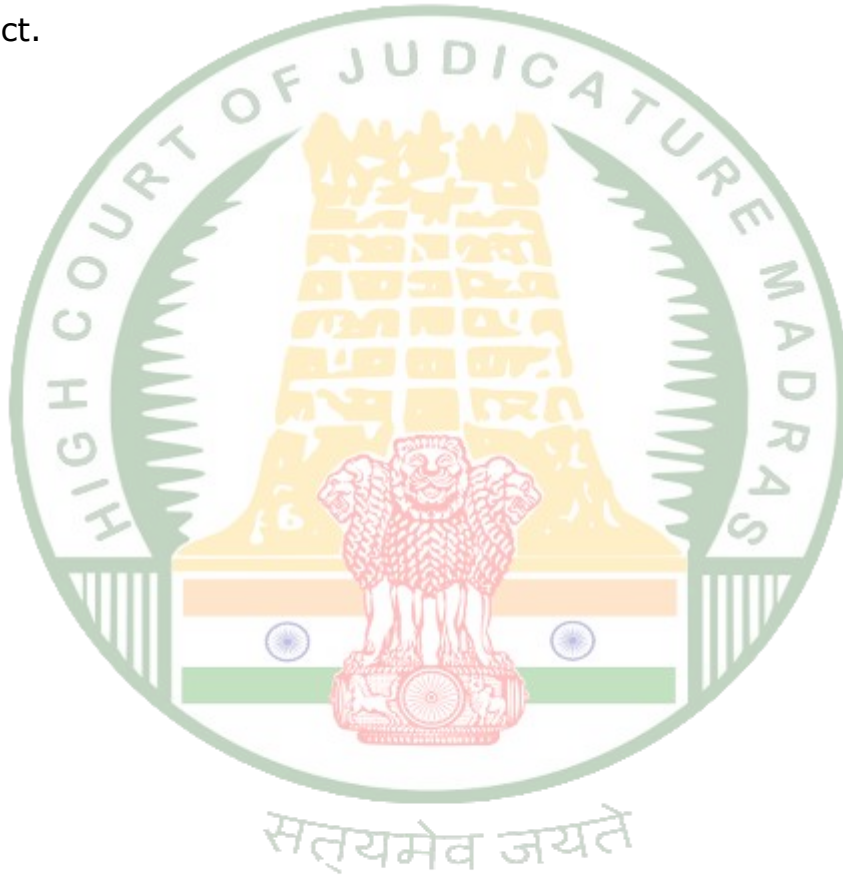
सत्यमेव जयते

WEB COPY

To

1.The District Collector,
Nilgiris,
Nilgiris District.

2.The Executive Officer,
Town Panchayat,
Kothagiri,
Nilgiri District.



WEB COPY

G.JAYACHANDRAN.J.,

jbm



Pre delivery Order made in
W.P.No.9425 of 2019

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24.06.2019