



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE M. SUNDAR

W.P (MD) No. 7072 of 2011

and

M.P (MD) No. 1 of 2011

WEB COPY

P.V.Sivasubramanian

... Petitioner

Vs.

1.The Commissioner,
Agricultural Marketing Department,
Thiru.Vi.Ka.Industrial Shed,
Guindy, Chennai - 600 032.

2.The District Collector,
Madurai.

3.The Secretary,
Madurai Marketing Committee,
No.145-A, Anna Nagar,
Madurai.

... Respondents

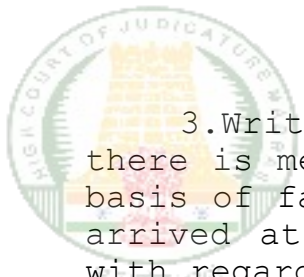
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the third respondent dated 13.06.2011 in Na.Ka.No.Aa2/1710/2008 and quash the same.

For Petitioner	: Mr.S.Mohamed Kadhar for Mr.B.Chandramohan
For RR 1 & 2	: Mr.Aayiram K.Selvakumar, Additional Government Pleader.
For R - 3	: Mr.K.Mu.Muthu, Additional Government Pleader.

ORDER

Mr.S.Mohamed Kadhar, learned counsel representing Mr.B.Chandramohan, counsel on record for writ petitioner, Mr.Aayiram K.Selvakumar, learned Additional Government Pleader on behalf of respondents 1, 2 and Mr.K.Mu.Muthu, learned Additional Government Pleader (instructed by third respondent, who is present in Court to assist learned State Counsel) for third respondent are before this Court.

2.With consent of all aforesaid learned counsel, main writ petition is taken up, heard out and is being disposed of by a consent order.



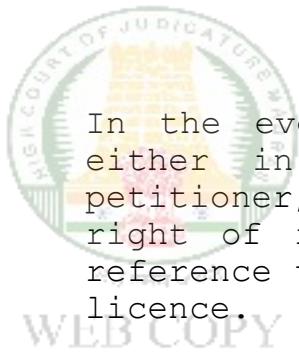
3.Writ petitioner has filed a memo dated 26.11.2019. Though there is mention about fair rent as well as rental agreement on the basis of fair rent in the memo, it is made clear that consensus now arrived at for the purposes of disposal of this Writ Petition is with regard to quantum of enhancement of monthly rentals and payment of arrears for the period from 2007, but reduced to the period between 2011 and 2019. To be precise for the period from 01.05.2011 to 30.10.2019. The logic behind this period is impugned order is dated 13.06.2011 and Writ Petition is now being disposed of in November of 2019.

4.Writ petitioner by consent has agreed to pay rent for the aforesaid period from 01.05.2011 to 30.10.2019 at the following rate:

Rent payable by writ petitioner for his shop from 01.05.2011 to 31.10.2019			
1.	01.05.2011 to 30.04.2014 (3 years)	36 X 2939	Rs.1,05,804/-
2.	01.05.2014 to 30.04.2017 (3 years)	36 X 3380	Rs.1,21,680/-
3.	01.05.2017 to 30.10.2019 (2 and half years)	30 X 3887	Rs.1,16,610/-
		Total	Rs.3,44,094/-
(Rupees Three Lakhs, Forty four thousand and ninety four only)			

5.This Court is informed that original allotment was on 07.11.2006 vide proceedings bearing Reference No.M2/2792/1993. Though this proceeding refers to terms such as 'முற்றிலும் தற்காலிகமாக வாடகை ஒப்பந்த அடிப்படை' as well as 'வாடகை' , from the submissions made at the bar about the topography, it is clear that it is a case of licence. The reason is ingress and egress to the market where demised area is situate is admittedly controlled by third respondent. Furthermore, there cannot be a lease for a period exceeding one year by way of an unregistered document. To be noted, this 07.11.2006 order also uses the term 'ஒதுக்கப்பட்டு ie., ஒதுக்கீடு', buttressing the position that this is clearly a case of licence.

6.Be that as it may, writ petitioner undertakes to pay entire arrears at the aforesaid quantum on or before 31.12.2019. Respondents agree to receive the arrears at the aforesaid quantum.



In the event of failure to pay arrears in the aforesaid manner either in full or in part on or before 31.12.2019 by writ petitioner, third respondent will be at liberty to exercise their right of re-entry qua the shop / demised area concerned without reference to this Court in accordance with law, as this is a case of licence.

7.Though obvious, it is made clear that in all other respects, the parties will be governed by the original terms and covenants of allotment dated 07.11.2006 bearing Reference No. 2/2792/1993 treating the allotment as one of licence qua demised area / demised shop.

8.Instant Writ Petition is disposed of on above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Commissioner,
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Thiru.Vi.Ka.Industrial Shed,
Guindy, Chennai - 600 032.

2.The District Collector,
Madurai.

3.The Secretary,
Madurai Marketing Committee,
No.145-A, Anna Nagar,
Madurai.

+1 CC to M/s.SPL GP (SR-101966[F] dated 27/11/2019)
SMA/11/12/19/3P/5C

W.P (MD) No.7072 of 2011
26.11.2019