



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD) Nos.5513 and 3282 to 3288 of 2019

and

W.M.P. (MD) .Nos.4370, 2572 to 2578 of 2019

WEB COPY

K.Venkatesan ... Petitioner in W.P.5513/2019

P.Arumugam ... Petitioner in W.P.Nos.3282 and
3283/2019

R.Ramakrishnan ... Petitioner in W.P.Nos.3284,
3285 and 3286/2019

K.Senthil ... Petitioner in W.P.3287/2019

Mohamed Iqbal ... Petitioner in W.P.3288/2019

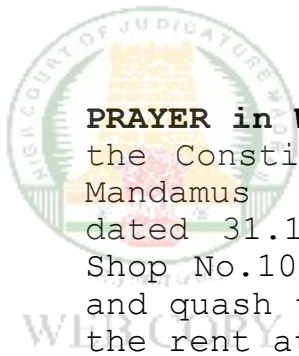
vs.

The Commissioner
Pattukkottai Municipality,
Pattukottai,
Thanjavur District. ... Respondent in all W.Ps

PRAYER in W.P.No.5513/2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 31.10.2018 in Na.Ka.No.5658/2016/A2 of the respondent for Shop No.106/7 new bus stand, Pattukottai, Thanjavur District and quash the same and consequently direct the respondent to revise the rent at 15% increment.

PRAYER in W.P.No.3282/2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 31.10.2018 in Na.Ka.No.5658/2016/A2 of the respondent for Shop No.106/43 new bus stand, Pattukottai Thanjavur District and quash the same and consequently direct the respondent to revise the rent at 15% increment.

PRAYER in W.P.No.3283/2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 31.10.2018 in Na.Ka.No.5658/2016/A2 of the respondent for Shop No.106/176 new bus stand, Pattukottai, Thanjavur District and quash the same and consequently direct the respondent to revise the rent at 15% increment.



PRAYER in W.P.No.3284/2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 31.10.2018 in Na.Ka.No.5658/2016/A2 of the respondent for Shop No.106/161, new bus stand, Pattukottai, Thanjavur District and quash the same and consequently direct the respondent to revise the rent at 15% increment.

PRAYER in W.P.No.3285/2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 31.10.2018 in Na.Ka.No.5658/2016/A2 of the respondent for Shop No.106/162, New bus stand, Pattukottai, Thanjavur District and quash the same and consequently direct the respondent to revise the rent at 15% increment.

PRAYER in W.P.No.3286/2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 31.10.2018 in Na.Ka.No.5658/2016/A2 of the respondent for Shop No.106/163, new bus stand, Pattukottai, Thanjavur District and quash the same and consequently direct the respondent to revise the rent at 15% increment.

PRAYER in W.P.No.3287/2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 31.10.2018 in Na.Ka.No.5658/2016/A2 of the respondent for Shop No.106/8, new bus stand, Pattukottai, Thanjavur District and quash the same and consequently direct the respondent to revise the rent at 15% increment.

PRAYER in W.P.No.3288/2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 31.10.2018 in Na.Ka.No.5658/2016/A2 of the respondent for Shop No.106/42, New bus stand, Pattukottai, Thanjavur District and quash the same and consequently direct the respondent to revise the rent at 15% increment.

For Petitioner : Mr.V.Illanchezian for Mr.B.Prasanna Vinoth
(in all W.Ps)

For Respondent : Mr.J.Gunaseelan Muthaiah
Additional Government Pleader
(in all W.Ps)

C O M M O N O R D E R

These writ petitions have been filed, challenging the impugned notices dated 31.10.2018, issued by the respondent in respect of the
<https://hcservices.ecourts.gov.in/hcservices/>



petitioners' Shops, situated in New bus stand, Pattukottai, Thanjavur District and consequently to direct the respondent to revise the rent at 15% increment.

2.The respondent issued notices dated 31.10.2018 to the petitioners in proceedings Na.Ka.No.5658/2016/A2. Even though the nomenclature is 'notice', the rent itself was revised and refined as follows:-

Sl.N o	Shop No.	Actual rent	Increased rent	W.P.No
1.	106/7	Rs.10,120/-	Rs.20,750/-	5513 /2019
2.	106/170	Rs.17,262/-	Rs.43,155/-	3282/ 2019
3.	106/176	Rs.10,289/-	Rs.25,723/-	3283/ 2019
4.	106/161	Rs.1323/-	Rs.5510/-	3284/ 2019
5.	106/162	Rs.1323/-	Rs.5510/-	3285/ 2019
6.	106/163	Rs.1323/-	Rs.5510/-	3286/ 2019
7.	106/8	Rs.3,896/-	Rs.20,750/-	3287/ 2019
8.	106/42	Rs.8,826/-	Rs.22,065/-	3288/ 2019

3.According to the petitioners, the rent is increased at 150% more than the old rent collected from the petitioners. Aggrieved over the same, the petitioners have come before this Court.

4.According to the petitioners, without issuing show cause notice as to why the rent should not be increased and without receiving their objections or providing opportunity of personal hearing, the respondent has unilaterally refixed the rent. Further, as per the resolution passed by the respondent, the prevailing rent itself is more than the market rent as well as PWD rent. Hence, according to them, the respondent should not increase the rent at 150% contrary to G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007.

5.Per contra, the learned Additional Government Pleader appearing for the respondent Municipality would submit that for the shop owners who have completed 9 years of lease period, rent shall be fixed as per the market rate or PWD rate. Accordingly, after giving notices, the rent was refixed by the respondent. Hence, there is no violation of principles of natural justice and the



orders passed by the respondent is very much legal and need not be interfered with.

6.I have considered the above submissions.

7.On the face of it, it is seen that the impugned re-fixation orders were issued by the respondent without any notice to the shop owners and the decision is based on resolution No.542, dated 31.10.2018. A reading of notice would further reveal that it is pre-determined. Even though it is observed in the resolution that the present rent itself is in excess of market rental value as well as PWD rate, rent was fixed with increase at 150%. Hence, it is contrary to the resolution passed by the Municipality. Justice is not only to be done, but seems to be done. The impugned order is in utter violation of principles of natural justice. Therefore, I am of the considered opinion that the petitioners shall be given an opportunity to submit their objections in compliance with the principles of natural justice. On the aforesaid reasons, the impugned notices in Na.Ka.No.5658/2016/A2, dated 31.10.2018 are set aside and the matters are remitted back to the respondent for fresh consideration.

8.Accordingly, the writ petitions are allowed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

vs

To:

The Commissioner
Pattukkottai Municipality,
Pattukkottai,
Thanjavur District.

+1CC TO MR.J.GUNASEELAN MUTHIAH, Advocate Sr. No.96171

+8CC TO MR.B.PRASANNA VINOTH, Advocate Sr. No. 95563 TO 95570

W.P. (MD) No.5513 and 3282 to 3288 of 2019
01/11/2019

SRK(CO)

TR(12.11.2019) 4P 11C