



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)Nos.3029 of 2020, 23825, 6127 to 6145 of 2019,
2938 and 2945 of 2020
and W.M.P(MD)Nos.20445 of 2019,
2490, 2496, 2555, 3147 to 3166 of 2020 and
4884 of 2019 to 4902 of 2019

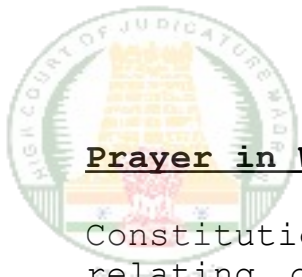
Chithirai Selvan	...	Petitioner in WP(MD).No.3029 of 2020
A.Jeyakumar	...	Petitioner in WP(MD).No.23825 of 2019
O.Arunachalam	...	Petitioner in WP(MD).No.6127 of 2019
S.Dhanapal	...	Petitioner in WP(MD).No.6128 of 2019
R.Arumugam	...	Petitioner in WP(MD).No.6129 of 2019
Regina Begum	...	Petitioner in WP(MD).No.6130 of 2019
V.R.Bose	...	Petitioner in WP(MD).No.6131 of 2019
R.Kannan	...	Petitioner in WP(MD).No.6132 of 2019
S.Ramasamy	...	Petitioner in WP(MD).No.6133 of 2019
P.Jeyaraman	...	Petitioner in WP(MD).No.6134 of 2019
T.Sivakumar	...	Petitioner in WP(MD).No.6135 of 2019
R.Venkatasubbu	...	Petitioner in WP(MD).No.6136 of 2019
P.R.Sornalingam	...	Petitioner in WP(MD).No.6137 of 2019
Sheik Dawood	...	Petitioner in WP(MD).No.6138 of 2019
V.Kannan	...	Petitioner in WP(MD).No.6139 of 2019
P.R. Arasappan	...	Petitioner in WP(MD).No.6140 of 2019
R.M.Pughzhendhi	...	Petitioner in WP(MD).No.6141 of 2019
P.Selvam	...	Petitioner in WP(MD).No.6142 of 2019
M.Vijayan	...	Petitioner in WP(MD).No.6143 of 2019
V.Ravindran	...	Petitioner in WP(MD).No.6144 of 2019
Soundaravalli	...	Petitioner in WP(MD).No.6145 of 2019
Tamilarasan	...	Petitioner in WP(MD).No.2938 of 2020
Tamilarasan	...	Petitioner in WP(MD).No.2945 of 2020

VS

The Commissioner	Devakottai Municipality,	
Devakottai, Sivagangai District	..	Respondent
		(in all Cases)

Prayer in WP(MD).No.3029 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records relating to the proceedings pursuant to the Notice dated 05.02.2019 of the respondent herein in respect of the Shop NO.14, Bus Stand, Devakottai, Sivagangai District and quash the same



Prayer in WP(MD).No.23825 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records relating ot the proceedings dated 15.10.2018 of the respondent herein in respect of the Shop No.13, Bus Stand Shop, Devakottai, Sivagangai District and quash the same

Prayer in WP(MD).No.6127 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05/02/2019 of the respondent herein in respect of the Shop.No.2, Vadiyar Street, Devakottai, Sivagangai District and quash the same

Prayer in WP(MD).No.6128 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05/02/2019 of the respondent herein in respect of the Shop.No.2, Bus Stand, Devakottai, Sivagangai District and quash the same.

Prayer in WP(MD).No.6129 of 2019 :

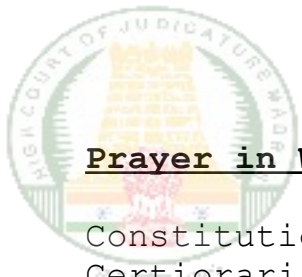
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05/02/2019 of the Respondent herein in respect of the Shop.No.7, Bus Stand, Devakottai, Sivagangai District and quash the same

Prayer in WP(MD).No.6130 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05/02/2019 of the respondent herein in respect of the Shop.No.8, Vadiyar Street, Devakottai, Sivagangai District and quash the same

Prayer in WP(MD).No.6131 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05/02/2019 of the respondent herein in respect of the Shop.No.10, Bus Stand, Devakottai, Sivagangai District and quash the same



Prayer in WP(MD).No.6132 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 15/10/2018 of the respondent herein in respect of the Shop.No.7, Thirupattur Road, Devakottai, Sivagangai District and quash the same

Prayer in WP(MD).No.6133 of 2019

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05/02/2019 of the Respondent herein in respect of the Shop No.6, Bus Stand, Devakottai, Sivagangai District and quash the same

Prayer in WP(MD).No.6134 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05/02/2019 of the respondent herein in respect of the Shop.No.3, Vadiyar Street, Devakottai, Sivagangai District and quash the same

Prayer in WP(MD).No.6135 of 2019 :

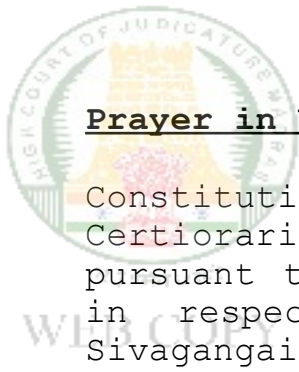
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05/02/2019 of the respondent herein in respect of the Shop.No.5, Bus Stand, Devakottai, Sivagangai District and quash the same .

Prayer in WP(MD).No.6136 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05/02/2019 of the respondent herein in respect of the Shop.No.19, Bus Stand, Devakottai, Sivagangai District and quash the same .

Prayer in WP(MD).No.6137 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 20/02/2019 of the Respondent herein in respect of the Shop No.6, Vadiyar Street, Devakottai, Sivagangai District and quash the same .



Prayer in WP(MD).No.6138 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05/02/2019 of the respondent herein in respect of the Shop.No.3, East Bus Stand, Devakottai, Sivagangai District and quash the same

Prayer in WP(MD).No.6139 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05/02/2019 of the respondent herein in respect of the Shop.No.4, Vadiyar Street, Devakottai, Sivagangai District and quash the same

Prayer in WP(MD).No.6140 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05/02/2019 of the respondent herein in respect of the Shop.No.1, Vadiyar Street, Devakottai, Sivagangai District and quash the same

Prayer in WP(MD).No.6141 of 2019 :

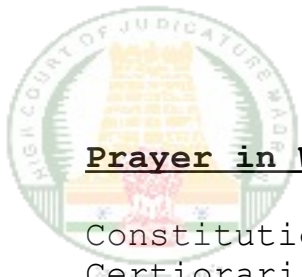
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05/02/2019 of the Respondent herein in respect of the Shop No.4, Bus Stand, Devakottai, Sivagangai District and quash the same

Prayer in WP(MD).No.6142 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05/02/2019 of the respondent herein in respect of the Shop.No.11, Daily Market, Vadiyar Street, Devakottai, Sivagangai District and quash the same .

Prayer in WP(MD).No.6143 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05/02/2019 of the respondent herein in respect of the Shop.No.8, Bus Stand, Devakottai, Sivagangai District and quash the same .



Prayer in WP(MD).No.6144 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 25/05/2018 of the respondent herein in respect of the Shop.No.8, Daily Market, Devakottai, Sivagangai District and quash the same .

Prayer in WP(MD).No.6145 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05/02/2019 of the Respondent herein in respect of the Shop No.12, Bus Stand, Devakottai, Sivagangai District and quash the same .

Prayer in WP(MD).No.2938 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records in pursuant to the impugned demand notice dt. 23.10.2019 issued by the respondent herein in respect of the Shop No.11, Devakotati Bus Stand, Devakottai, Sivagangai Dt.

Prayer in WP(MD).No.2945 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records in pursuant to the impugned demand notice dated 23.10.2019 issued by the respondent herein in respect of the Shop No. 18, Devakottai Bus Stand, Devakottai, Sivagangai District

For Petitioner .. Mr.Ar.L.Sundaresan
Senior Counsel, for Mr.K.Saravanan
in WP(MD) No.3029 of 2020

Mr.Ar.L.Sundaresan
Senior Counsel for
M/s AL.Gandhtimathi
in WP(MD) No.23825 of 2019
and
in WP(MD) Nos.6127 to 6145 of 2019

Mr.B.Anandan
in WP(MD) Nos.2938 & 2945 of 2020



For Respondent .. Mr.Mohammed Imran
Standing Counsel (in all cases)

COMMON O R D E R

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These writ petitions have been filed in the nature of Certiorari, to call for the records relating to the proceedings pursuant to the notice, dated 5.02.2019, of the respondent namely, Devakottai Municipality, Devakottai, Sivagangai District, with respect to the individual shops in Vadiyar Street, Devakottai, Sivagangai District and set aside the same.

2.Since all the writ petitions are similar in nature, a common order is passed in all the writ petitions.

3.Heard Mr.AR.L.Sundaresan, learned Senior Counsel for the petitioners in W.P.(MD)No.3029 of 2020, 23825 and 6127 to 6145 of 2019 and Mr.B.Anandan, learned Counsel for the petitioner in W.P.(MD)No.2938 and 2945 of 2020 and Mr.Mohammed Imran, learned Standing Counsel for the respondent.

4. The petitioners herein are the licence holders of shops in Devakottai Bus Stand. They have been in possession of the shop at least from 01.04.2016 to 31.03.2019 for which period, auction was conducted and monthly amount payable is fixed at Rs.4,000/- per month and service tax is Rs.600/- per month. They have been paid a sum of Rs.50,000/- each as security deposit. They have actually been in possession for nearly a decade prior to the date of auction mentioned above. On 16.08.2017, the respondent issued a notice to all the shop owners claiming Rs.12,000/- as monthly payment and a further direction was issued to pay the arrears with retrospective effect and each petitioner was called upon to pay substantial arrears of monthly rent amount and also service tax which was proportionately increased.

5. Questioning that order, a series of writ petitions had been filed. In a batch of writ petitions in W.P.(MD)No.2737 of 2018 etc., batch, Sornakalai Vs. The Commissioner, Devakottai Municipality, Devakottai, Sivagangai District, by a common order, dated 23.02.2018, a learned Single Judge of this Court examined the demand notice and passed the following order :

"10.In the above circumstances, since already demand notices have been issued by the Municipality, the above demand notices may be treated as show cause notices and the petitioners are directed to give their objections for the same, and after receipt of the objections, the respondent Municipality is



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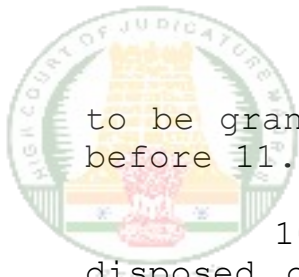
directed to consider the objections and pass fresh orders for revising the lease amount. The petitioners are directed to give their objections within a period of two weeks from the date of receipt of a copy of this order and thereafter, the respondent Municipality is directed to consider their objections and pass orders within a period of four weeks thereafter. Till the order is passed by the respondent, the possession of the petitioners shall not be disturbed."

6. In the course of arriving at such conclusion, the learned Single Judge held that the principles of natural justice has not been followed and the order was passed. The present impugned notice has been once again passed without drawing reference to the earlier order in the above writ petitions. The petitioners were once again called upon to pay a sum of Rs.12,000/- as monthly payment and proportionately increased service tax and they have been asked to pay the same from April 2017 - 2018 onwards.

7. The learned Senior counsel for the petitioner has raised strong objections to the demand notice stating that the earlier order was not communicated to the petitioners herein and therefore, the objections were not given. It is also pointed out even in the earlier order, the calculation memo as to how the rental amount was fixed, was not given. Therefore, the writ petitioners were handicapped in that they could not give any objections

8. The learned Counsel for the respondent, on the other hand, stated that the writ petitioners are in possession for a considerable period and are paying a sum of Rs.4,000/- per month. If the shops are let out for auction the Municipality will earn a larger amount. Therefore, he urged that some directions to be given to the petitioners to pay an increased amount every month.

9. Having heard the submissions of the learned Senior Counsel for the petitioners and the learned Standing Counsel for the respondent, I am of the view that the impugned order has to be set aside. However, an opportunity is once again granted to the respondent to give a detailed calculation memo and refix the monthly amount payable. This Calculation memo can be served on each one of the petitioners on or before 03.04.2020. For this, the petitioners have to give their objections, if they have any, on or before 24.04.2020. Thereafter, the respondent, have to pass orders on or before 11.05.2020. If the petitioners in their objections, demand a right to be heard, then such opportunity has



to be granted by the respondent before passing final orders on or before 11.05.2020.

10. With the above observations, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

The Commissioner,
Devakottai Municipality,
Devakottai,
Sivagangai District.

+4 CC to M/s.H.MOHAMED IMRAN, Advocate SR-10311

+1 CC to M/s.K.SARAVANAN, Advocate SR-10356

+2 CC TO MR.B.ANANDAN, Advocate Sr. No.10449 & 10450

Common Order in

W.P(MD)Nos.3029 of 2020,
23825, 6127 to 6145 of 2019,
2938 and 2945 of 2020

05.03.2020

SRK(CO)

TR(09.03.2020) 8P 9C