



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.4466 of 2017

and

W.M.P. (MD) .No.3583 of 2017

R.Venkatesan

...Petitioner

Vs.

1.The Tiruchirapalli City Municipal Corporation,
Represented by its Commissioner,
Bharathidasan Salai, Cantonment,
Tiruchirapalli-1.

2.The Assistant Commissioner,
Tiruchirapalli City Municipal Corporation,
Ariyamangalam Zone, Palakkarai,
Tiruchirapalli-1.

...Respondents

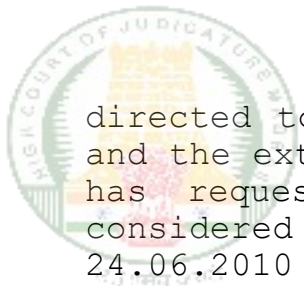
PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to pass orders on the application of the petitioner dated 06.06.2011 in accordance with the judgment and decree in O.S.No.258/2005 dated 24.06.2010 and refund the amount of Rs.1,00,000/- collected illegally from the petitioner.

For Petitioner : Mr.B.Prasanna Vinoth
For Respondents : Mr.N.S.Karthikeyan

ORDER

Heard the learned counsel on either side.

2.The petitioner's case is that he is a tenant under the respondent Corporation for the last several years. Aggrieved by the stand of the respondents with regard to enhancement of the site rent, the petitioner is said to have filed a civil suit in O.S.No.258 of 2005 before the Ist Additional District Munsif Court, Trichy. The Civil Court by judgment and decree dated 24.07.2010 even while setting aside the notice dated 21.12.2004 issued by the Corporation and restraining the corporation from giving effect to the notice, permitted the petitioner herein to submit an application for renewal of the lease along with the admitted arrears of rent, if any. On receipt of the renewal application, the Corporation was



directed to consider the same on merits and in accordance with law and the extant Government Orders. The petitioner now claims that he has requested for extension of lease and the same should be considered in accordance with the said judgment and decree dated 24.06.2010 in O.S.No.258 of 2005.

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3.I am afraid that the very framing of the relief is misconceived. If according to the petitioner, a decree obtained by him in his favour has not been complied with, the only course open to the petitioner is to file an execution petition. Filing of a writ petition for enforcing the Civil Court decree does not arise.

4.Be that as it may, I cannot lose sight of the fact that the petitioner is occupying a land that belongs to the respondent Corporation and it is open to the respondent Corporation to fix the site rent on the basis of the Government Orders that are issued from time to time. The power and authority of the respondent Corporation to determine the site rent based on the extant Government orders cannot be questioned.

5.Therefore, no relief can be granted to the petitioner in these writ proceedings. Leaving open the rights of the parties to be covered by the extant Government Orders, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

tsg

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

ORDER MADE IN
W.P. (MD) .No.4466 of 2017

13.07.2020

NR(21/07/2020) 2P 1C