



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.Nos.295 & 296 of 2018
and C.M.P.Nos.2251 & 2252 of 2018

S.Kumar

.. Appellant
in WA 295/18

1.R.Vadivelu
2.Sampath
3.Mahalingam
4.Kameswaran
5.Porchelvan
6.C.S.Durai
7.E.K.A.Nizamuddin Basha

.. Appellants
in WA 296/18

Vs

1.The State of Tamil Nadu
Rep. by its Secretary to Government,
Municipal Administration and Water
Supply Department,
Fort St.George,
Chennai - 600 009.

2.The Commissioner of Municipal Administration,
Municipal Administration Department,
Ezhilagam Annexe - 6th Floor,
Chepauk, Chennai - 600 005.

3.The Regional Director of Municipal Administration,
Vellore.

4.The Commissioner,
Tiruvannamalai Municipality,
Tiruvannamalai.

.. Respondents
in both writ appeals

Appeals filed under Clause 15 of Letters Patent against the
order dated 20.11.2017 passed in W.P.Nos.10749 & 15184 of 2017.



Prayer in WP.No.10749 of 2017:

Writ Petition filed under Article 226 of the constitution of India praying for the issuance of a writ of Declaration declaring that the demand made by the 4th respondent for payment of revised rent from the petitioner for the shop No.6, Polur Market Road, Thiruvannamalai by more than 1000% of the existing rent by communication dated 11.03.2017 in Na.Ka.No.A1/4839/16 as being illegal and unreasonable.

Prayer in WP.No.15184/17:

Writ Petition filed under Article 226 of the constitution of India praying for the issuance of a writ of Declaration declaring that the demand made by the 4th respondent for payment of revised rent from the petitioner for the shops allotted to them within the Tiruvannamalai Municipality by more than 450% of the existing rent by communication dated 11.03.2017 in Na.Ka.No.A1/4839/16 as being illegal and unreasonable.

For Appellants : Ms.D.Kamachi
(in both cases)

For Respondents : Mr.S.John J Raja Singh
Government Counsel
for R1 to R3
Mr. B.Anand for R4
(in both cases)

COMMON JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

The appellants in both the cases are the licensees and they are seeking to challenge the rent fixed as per the Government Order passed in G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007. By the aforesaid Government Order, a concession has been given to the licensees who have been doing their business for more than nine years. These appellants having accepted the said concession filed the writ petitions, challenging the enhanced rent demanded as determined by the respondents in tune with the aforesaid Government Order passed. The learned Single Judge dismissed the writ petitions. Challenging the same, the present appeals have been filed.

2. Learned counsel appearing for the appellants submitted that though the Division Bench dismissed the writ appeals in W.A.Nos.203 and 204 of 2018, challenging the similar impugned notice issued by the fourth respondent dated 11.03.2017 which has been confirmed by the Apex Court, the review petitions are pending. In any case, in one of the cases, the Division Bench in W.A.No.1012 of 2018 by order dated 28.04.2018 has given liberty



to the licensees to approach the concerned local authority and till such time, status quo was directed to be maintained.

3. Learned Government counsel appearing for respondents 1 to 3 submitted that not only the writ appeal but also the Special Leave Petition was dismissed. Even subsequently, the Special Leave Petition was dismissed on the very same issue. Therefore, no interference is required.

4. Law has been settled on this aspect. Even this Bench has dismissed many number of cases inter alia holding that what has been given is a concession and the appellants are only the licensees. No challenge has been made against the decision of the Government but only to the consequent fixation of rent. It is an admitted fact that most of the similar cases have been dismissed by this Court and the Special Leave Petitions were also dismissed. Therefore, in law, the appellants do not have any case though some review petitions are stated to be pending.

5. However, taking note of the order passed in W.A.No.1012 of 2018 which deals with the fixation of rent by the Villupuram Municipality, we are inclined to give liberty to the appellants to approach the fourth respondent for reduction of rent within a period of two weeks from the date of receipt of a copy of this judgment. The fourth respondent shall consider it on merit and in accordance with law and in tune with the Government Order in G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007, if law so permits, within a further period of two weeks. Till then, status quo as on today shall be maintained. In this connection, we may note that while dismissing the Special Leave Petitions, the Apex Court has given only four weeks' time for vacating the premises. Therefore, mere pendency of the review petitions pertaining to different appellants will not enable the appellants herein to get favourable orders in these appeals.

6. With the above observation, these writ appeals stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi/ssm



To

1.The Secretary to Government,
State of Tamil Nadu,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai - 600 009.

2.The Commissioner of Municipal Administration,
Municipal Administration Department,
Ezhilagam Annexe - 6th Floor,
Chepauk, Chennai - 600 005.

3.The Regional Director of Municipal Administration,
Vellore.

4.The Commissioner,
Tiruvannamalai Municipality, Tiruvannamalai.

+lcc to the Government Pleader, S.R.No.36551

+lcc to M/s.D.Kamatchi, Advocate SR.No.35783(16/08/2021)

W.A.Nos.295 & 296 of 2018

MG(CO)
CB(13/08/2021)