



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2021

CORAM:

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

W.P. No. 16975 of 2021

and

W.M.P.Nos. 17977&17978 of 2021

1.P.Jayapandian
2.N.Sundaram
3.S.Kumar

.. Petitioners

Vs

1. The State of Tamilnadu
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.
3. The Regional Director of Municipal Administration
Chengalpet
4. The Pallavaram Municipality
Rep. by its Commissioner,
Chrompet,
Chennai 600 044.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the 4th respondent by proceedings in Na.Ka.No.7819/2001/A1 dated 11.02.2021 and Na.Ka.No.7819/2001/A1 dated 10.03.2021 and Na.Ka.No.7819/2001/A1 dated 30.04.2021 and Na.Ka.No.7819/2001/A1 dated 05.08.2021 and quash the same and consequently direct the respondents to determine the fair rent to the petitioners shops for the land alone in particularly excluding the building value by following the principles laid down under Section 10 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017.



WEB COPY

For Petitioner : Mr.P.Saravana Sowmiyan

For Respondent : Mr.A.Selvendran

Government Advocate for R1 to R3
Mr.P.Srinivas for R4

O R D E R

This Writ Petition has been filed challenging the impugned proceedings of the fourth respondent Municipality and for a consequential direction to the respondents to determine the fair rent to the petitioners' shops by taking into consideration only the land and exclude the superstructure.

2. The case of the petitioners is that they along with others totalling 54 persons joined together and formed an association called as 'Pallavaram Nagaratchi Sirukadai Viyabarigal Sangam'. According to the petitioners, the fourth respondent Municipality has allotted land for establishing 54 shops and that the size of each shop is about 38 sq. ft. and they were properly paying the rent. That apart, they have also spent a lot of money in putting up the shop and maintaining the same.

3. The grievance of the petitioners is that the 4th respondent Municipality has issued the impugned proceedings directing the petitioners to pay the increased rent along with the additional security deposit without providing the petitioners an opportunity and without taking into consideration the fact that what was leased was only the land and not the superstructure.

4. The fourth respondent Municipality has filed a counter affidavit. The fourth respondent has taken a stand that the shop keepers belonging to the association have been in occupation of the shops without properly paying the rent and by subletting the shops to various other persons. That apart whenever action is taken by the Municipality, one proceeding or the other is initiated and thereby the revision of rent is stalled on every occasion. It is further stated that the refixation of rents was processed and proposals were sent to the monitoring committee chaired by the third respondent and the monitoring committee after perusing the reports has issued the orders fixing rents based on acceptable rates. It is stated that as per the present revision of rents, the rent per shop works out to only Rs.1,050/- per shop per month for shops with RCC structure and Rs.655/- per shop per month for shops with ACC sheet roofs. It is alleged that the petitioners are paying Rs.271/- per shop per month for RCC as well as ACC roofs.



5. The 4th respondent has justified the revision of rents by placing reliance upon various Government orders. It is further stated that pursuant to the notice issued to the petitioners through their association, the petitioners have also submitted letters dated 11.08.2021 and 12.08.2021 and have accepted the revision of rents and have also remitted a sum of Rs.10 lakhs out of the total dues of Rs.19,90,376/-. It is further alleged that the petitioners undertook to clear all the dues in monthly instalments. Therefore the fourth respondent has come up with a stand that the petitioners have agreed to pay the revised rent and therefore, nothing survives in the present writ petition.

6. Heard the learned counsel for the petitioners, learned Government Advocate appearing on behalf of the respondents 1 to 3 and the learned standing counsel for the 4th respondent.

7. In the considered view of this Court, the revision of rent made by the 4th respondent by fixing a monthly rent of Rs.1,050/- per shop for shops with RCC structure and Rs.655/- per shop with ACC sheet roofs, is certainly not unreasonable. It is true that the shops are the livelihood of the petitioners and other shop keepers. At the same time, the respondent Municipality cannot be deprived of their income since they have to rely upon this income for carrying out various activities of the Municipality. This Court can interfere with the fixation of rent only if it is found to be unconscionable and unreasonable. The respondents have certainly taken into consideration various factors like, the market rate in shops in private premises, rent based on PWD rates and the value of the property as per the registration department and thereafter the monitoring committee has refixed the rents. Therefore, there is a basis for revision of rents and the Municipality is entitled to refix rent under the relevant Government orders.

8. In view of the above, this Court does not find any ground to interfere with the impugned notice issued by the fourth respondent. It is clear from the counter affidavit that the petitioners have paid a sum of Rs.10 lakhs out of the total dues of Rs.19,90,376/-. Therefore, if the petitioners are given some more time to pay the balance amount, they can be permitted to occupy the shops.

9. The learned counsel for the petitioners submitted that the petitioners have made a representation to the 4th respondent Municipality on 16.08.2021 requesting the 4th respondent Municipality to consider the reduction in the rents. The learned counsel submitted that a direction can be given to the 4th respondent to consider the same by keeping in mind the size of the shops and the nature of the business that is done by the petitioners.



10. Taking into consideration the facts and circumstances of the case and in view of the above discussion, this Court does not find any ground to interfere with the impugned notice issued by the 4th respondent. However, the petitioners are directed to make a fresh representation to the 4th respondent and undertake to remit the balance amount that is due and payable to the 4th respondent within a time frame and the 4th respondent shall consider the same and permit the petitioners to pay it by way of instalments. The petitioners can also make a fresh request seeking for reduction in the revised rent. Insofar as the claim made by the petitioners seeking for reduction of the rents, it will be left open to the 4th respondent to consider the same and take a decision. Till a decision is taken, the petitioners shall pay the revised rent as fixed by the fourth respondent.

11. This writ petition is disposed of accordingly. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

RR

To

1. The 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.
3. The Regional Director of Municipal Administration
Chengalpet
4. The Commissioner,
Pallavaram Municipality
Chrompet, Chennai 600 044.

+1cc to the Government Pleader, S.R.No.45522

W.P.No.16975 of 2021

KSM(CO)
CT(28/09/2021)