



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2021

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.19387 OF 2021

A.M.Mohamed Ajas

...Petitioner

vs

- 1.The Commissioner,
Municipalities Administrative Office,
Ezhilagam, Chennai - 5.
- 2.The Regional Director of Municipal Zonal Administration,
Arisipalayam,
Salem - 9.
- 3.The Commissioner,
Krishnagiri Municipality,
Krishnagiri District.
- 4.The District Collector,
District Collector Office,
Krishnagiri District.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to consider the petitioner representation dated 29.07.2021 and to fix the correct monthly rent for the Shop No.5 of the Municipal Commercial Complex, Bangalore Road, Krishnagiri as per the lease government rules, within a time frame as stipulated by this Court.

For Petitioner : Mr.J.Ramesh

For Respondents : Mrs.Akila Rajendran
Government Advocate(For R1,R2 & R4)
Mr.U.Bharanidharan
Additional Government Pleader(For R3)

O R D E R

The prayer sought for herein is for a writ of mandamus directing the respondents to consider the petitioner representation dated 29.07.2021 and to fix the correct monthly rent for the Shop No.5 of the Municipal Commercial Complex, Bangalore Road, Krishnagiri as per the lease / government rules, within a time frame as stipulated by this Court.



2. The petitioner is a lessee in respect of Shop No.5 at the Commercial Complex of the respondent Municipality. The initial rent which was fixed for the said shop was Rs.4,776/-. According to the petitioner, that was all of a sudden raised from 2016 unilaterally by the respondent Corporation to the extent of Rs.10,000/- per month and in this regard, when the petitioner made an enquiry with the respondent Municipality, he claimed to have come to know that, though there were 24 shops in the said commercial complex, only in respect of petitioner shop, such an exorbitant enhancement has been made i.e., 100% that too with the GST. Therefore, such an exorbitant enhancement is bad in law.

3. In order to reverse the same and fix the fair rent by enhancing into 15% from the existing rent, the petitioner has given a representation on 29.07.2021 to the respondent Municipality and since the same has not been considered, he has approached this Court by filing the present writ petition with the aforesaid prayer.

4. Heard Mr.J.Ramesh, learned counsel appearing for the petitioner, during the last hearing, when the case was taken up, it was asserted by the learned counsel for the petitioner that, such an unilateral enhancement has been made without placing any notice on the petitioner and such enhancement has been made in respect of the petitioner, but not to other shops i.e. the other lessees.

5. Therefore, in order to ascertain the said factor, this Court by order dated 12.11.2021 directed the respondent Municipality to file the details about number of shops which are available in the complex including the petitioner shop, the area of each shop the existing rent as well as the enhanced rent if it is enhanced to other lessees also.

6. Pursuant to the said direction issued by this Court, Mr.U.Bharanidharan, learned Additional Government Pleader appearing for the respondent Municipality has filed the proceedings of the respondent Municipality as per the revision of rent made by the Committee concerned in this regard, wherein, according to the respondent Municipality, there are 51 shops, wherein the petitioner shop is one among them and the committee, since the lease was over by 9 years, as per the Government Order which is in vogue in this regard, wanted to enhance the rent. Accordingly, uniform enhancement has been made in respect of all the shops.

7. By relying upon the said list of enhancement of rent for all the 51 shops including the petitioner, the learned Additional Government Pleader for respondent Municipality would



contend that, the plea raised by the petitioner that it was an unilateral enhancement only in respect of the petitioner and not for others is not correct and it has been enhanced to all the shop holders depending upon the area of the shop and the list filed in this regard would clearly demonstrate that, in respect of the shops, which is having the lesser area, a particular amount or about the said amount is fixed insofar as the shops like the petitioner which is in larger extent comparing with the other shops correspondingly the enhancement has been made.

8. I have gone through the said materials filed by the respondents and considered the plea raised by the petitioner.

9. In the list of enhancement of rent as produced by the respondent Municipality, 51 shops are involved and most of the shops is having the area of 10 X 10 i.e. 100 sq.ft. or sq.mt. Only few shops are having some larger extent like 12 X 18, 19 X 15, 10 X 15. In respect of the shops with an area of 10 X 10 uniformly between Rs.5,500/- to Rs.6,500/- the rent has been enhanced, previously, the rent was Rs.4,800/-. Insofar as the shops like the petitioner having larger extent, the previous rent was about Rs.4,000/- to Rs.5000/-, that has now been enhanced from Rs.10,000/- to Rs.11,000/-. In respect of the petitioner shop, the earlier rent for Rs.4,153/-, which has now been raised to Rs.10,000/-. In a similar shop with the same area of 12 X 18, the earlier rent was Rs.3,439/-, that has been enhanced to Rs.11,000/-.

10. Therefore, it cannot be pleaded by the petitioner that, the petitioner shop alone has been singled out and unilateral enhancement arbitrarily has been made to 100% and therefore, the said enhancement is to be revised and proper enhancement at the rate of 15% from the existing rent alone can be taken into account and accordingly, it should be fixed is concerned, that kind of plea raised by the petitioner through his representation dated 29.07.2021 is not feasible for compliance and therefore, no direction can be issued by this Court by directing the respondents to consider the representation dated 29.07.2021 and pass orders.

11. In that view of the matter, this Writ Petition fails, hence it is liable to be dismissed, accordingly it is dismissed. No costs.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

Sgl/sp



To

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Krishnagiri District.

+1cc to Mr.J.Ramesh, Advocate Sr.No.61192

W.P.No.19387 of 2021

MT(CO)
RVM(08/02/2022)