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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2021

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THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P.No.21239 of 2019

And

W.M.P.No. 20442 of 2019

P.Subburaman

..Petitioner

Vs

1. The State of Tamil Nadu  
Rep. by the Secretary  
Municipal Administration and Water Distribution  
Fort. St. George  
Chennai - 600 009.

2. The Commissioner  
Vridhachalam Municipality  
Vridhachalam.

..Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the second respondent in Na.Ka.No. 5692/2019/A2 dated 25.06.2019 and the consequential notice in Na.Ka.No. 5692/2019/A2 dated 09.07.2019, on his file, quash the same and direct the second respondent to fix fair rent for the premises at Archana Hotel, Bus Stand, Junction road, Vridhachalam.

For Petitioner                    :: Mrs. Hema Sampath  
Senior Advocate for  
M/s.R. Meenaal

For 1<sup>st</sup> Respondent            :: Mr. V.Manoharan  
Additional Government Pleader

For 2<sup>nd</sup> Respondent           :: Mr.P.Srinivasan  
Standing Counsel



## ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records of the second respondent in Na.Ka.No. 5692/2019/A2 dated 25.06.2019 and consequential notice in Na.Ka.No. 5692/2019/A2 dated 09.07.2019, on his file, quash the same and direct the second respondent to fix fair rent for the premises at Archana Hotel, Bus Stand, Junction road, Virudhachalam.

2.The petitioner is running a hotel outside the Virudhachalam Bus stand on taking the premise on lease from the second respondent Municipality. The rent had been fixed earlier, has been increased periodically and the present monthly rent is fixed at Rs.18,500/-. The petitioner claimed to have been paying the lease amount regularly without any default. As per the Government Order in G.O.Ms.No. 92 dated 03.07.2007, the lease amount has to be increased from 01.04.2019.

3.In this context, it is the allegation of the petitioner that, due to some external pressure, the second respondent issued notice to the petitioner on 07.12.2018 that the Municipality had decided to expand the Bus Stand and he has to vacate and hand over possession on 01.04.2019. Thereafter, a notice was served on 25.06.2019 that the monthly rent has been increased to Rs.90,000/- and that he has to pay an advance of 10 months rent within 15 days, failing which the possession has to be handed over.

4.Thereafter, the petitioner had sent a reply cum representation on 06.07.2019, where the petitioner states that, according to the market value, the monthly rent shall be fixed at Rs.25,000/-. Therefore, fixing a rate of Rs.90,000/- unilaterally is against the ground reality and therefore, based on which the demand cannot be made. Despite the said reply as well as representation given by the petitioner, further notice has been issued on 09.07.2019 under which the petitioner was directed to pay the enhanced rent with arrear otherwise he would be evicted from the premises.

5.Challenging these proceedings, the petitioner has moved the present Writ Petition with the aforesaid prayer.

6.Heard, Mrs. Hema Sampath, learned counsel appearing for the petitioner, who would submit that, if at all as per the Government Order ie., G.O.Ms.No. 92 dated 03.07.2007 if the respondent Municipality wants to increase the rent, an opportunity must be given to the petitioner and based on the market rate as well as the guideline value, a reasonable rent could have been fixed by enhancing the same, however,



unilaterally an exorbitant amount to the extent of Rs.90,000/- has been increased as monthly rent and that too retrospectively thereby demanding the petitioner to pay the arrear of 10 months, hence such unilateral action on the part of the second respondent Municipality is against the principles of natural justice and also against the guidelines issued in the said Government Order.

7. In this regard, the learned Senior Counsel would further contended that, if at all Rs.90,000/-, they arrived at, on what basis such Rs.90,000/- arrived at has not been spelt out in the order impugned and no calculation memo to that effect has been filed. Therefore in that respect also, the impugned order is infirmed she contended.

8. Per contra, Mr. P.Srinivas, learned Standing Counsel for the first respondent has relied upon the following averment made in the counter affidavit filed by the second respondent:-

"12. The rental value for the premises based on the market value, i.e., based on the average of the rents fetched in the private premises and other Municipal shops located in the same premises is in fact Rs.1,84,000/- per month (Rs.66/- per square feet) as the same was a very huge amount, the Committee has taken the value as per the Public Works Department. In fact under the Rent Control Act also, the rates prescribed by the Public Works Department are alone the basis for the calculation of the Fair Rent. Accordingly the Committee has refixed the rents for the three shops and the premises of the vegetarian Hotel and has issued the proceedings on 12.06.2019. Actually the rent calculated to the area of 2802 sq.ft. Only, but in the ground the lessee had made an additional construction with an extent of 1566 sq.ft., in the first floor (total 2802+1566) AC sheet building the rent will increase if we can do the additional. "

9. Relying upon the said averment of the second respondent, the learned Standing counsel would further submit that, since the total area of the premise of ground floor is 2802 sq.ft., and first floor is 1566 sq.ft., totaling 4368 sq.ft. If the market rate is taken into account, it comes Rs.66/- per sq.ft., and based on that calculation a sum of Rs.1,84,000/- should be collected from the petitioner as a market rent. However, the respondent Municipality has followed only the rental value fixed by the PWD Department which they fixed as Rs.35/- per sq.ft.,



and based on that rent only Rs.90,000/- per month has been fixed as rent and since the same has not been paid by the petitioner, it was demanded through the impugned communication dated 25.06.2019 and even after the reply given by the petitioner, by further communication dated 09.07.2019, such a demand was made. Therefore these two communications do not require any interference from this Court and hence, this Court to dismiss this Writ Petition.

10.I have considered the rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

11.In so far as the right of the second respondent Municipality to enhance the rent payable by the petitioner is concerned, since nine years period as a lessee, the petitioner has completed as on 31.03.2019, it had become due from 01.09.2014 to revise the rent under the guidelines issued in G.O.Ms.No. 92 referred to above. Accordingly, the rent was revised. While, revising the rent as has been pointed out by the learned Standing Counsel appearing for the Municipality it has taken only the PWD rate and not the actual market rent. If the market rent is taken into account, the rent would be a sum of Rs.1,84,000/- per month. However, by taking the rate fixed by the PWD ie., at Rs.35/- per sq.ft., the present rent at Rs.90,000/- has been fixed. Therefore, it cannot be stated that the said revision or fixation or enhancement is an exorbitant one considering the commercial value of the building occupied by the petitioner where the petitioner is running a hotel successfully at 4368 sq.ft., which is abetting the main Bus Stand of the respondent Municipality.

12.It is also to be noted that, since the revision has already been made in the year 2019, further revision become due in 2022 i.e., from 01.04.2022. Therefore, this Court feel that, there is no plausible reason available for the petitioner to successfully challenge the impugned notice and hence, this Writ Petition fails as such it is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

vsg



To

1. The Secretary  
The State of Tamil Nadu  
Municipal Administration and Water Distribution  
Fort. St. George  
Chennai - 600 009.

2. The Commissioner  
Vridhachalam Municipality  
Vridhachalam.

+1cc to M/s.R.Meenal, Advocate, S.R.No.63313  
+1cc to Mr.P.Srinivas, Advocate, S.R.No.63397  
+1cc to the Government Pleader, S.R.No.63502

W.P.No.21239 of 2019

And

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RK(CO)  
RGA(15/02/2022)