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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.18555 of 2019 &
WMP.Nos.17870, 17871 & 17873 of 2019

- 1.A.Varadharaja Perumal
- 2.R.Balaji
- 3.R.Parthiban
- 4.G.Lakshmanan
- 5.S.Neelaveni
- 6.I.Heera Banu
- 7.A.Kathirvelu
- 8.H.Thiyagarajan
- 9.K.Parameshwaran
- 10.J.Sekar
- 11.V.Kasturi Ammal
- 12.K.Govindaraj Arun
- 13.L.Venkatesan
- 14.K.Srinivasa Rao
- 15.M.Ammanullah

...Petitioners

Vs

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai-600 009.
2. The Director of Municipal Administration,
Municipal Administration Department,
Ezhilagam, Chepauk, Chennai - 600 005.
3. The Commissioner,
The Corporation of Vellore,
Vellore District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the Impugned Notice bearing Na.Ka.No.19267/16/A1, dated 04.04.2017 in respect of the petitioners' shops Nos: 11, 13 and 14 in AKMC Angadi, shop Nos:1 and 2 in Infantry Road, Shop Nos: 1 and 3 in Venkateshwara School, Shop Nos: 1, 2, 5 and 9 in Arcot Road, Shop Nos:25, 58, 60 and 112 in F-Block, Nethaji Market, Shop No:17 in Sitting



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Bazaar i.e. totally 16 shops situated at Vellore, on the file of the 3rd respondent and quash the same.

For Petitioners: Mr.Kamachi.D

For Respondents: Mr.C.Jayaprakash,
Government Advocate - R1 & R2
No appearance - R3

O R D E R

Fifteen petitioners are before me in this Writ Petition seeking a quash of impugned notices dated 04.04.2017 in respect of their shops bearing Nos. 11, 13 and 14 in AKMC Angadi, shop Nos:1 and 2 in Infantry Road, Shop Nos: 1 and 3 in Venkateshwara School, Shop Nos: 1, 2, 5 and 9 in Arcot Road, Shop Nos:25, 58, 60 and 112 in F-Block, Nethaji Market, Shop No:17 in Sitting Bazaar i.e. a total of 16 shops situated at Vellore.

2.The notices relate to demands for enhanced rent in respect of the shops occupied by the petitioners. As far as the issue of levy and collection of rents is concerned, the same stands decided by a Division Bench of this Court in W.A.Nos.1020 to 1026 of 2018 and W.A.Nos.1090 to 1093 of 2018 dated 01.08.2018, filed by other identically placed petitioners, wherein the Bench has opined that the procedure followed for fixation of rent was vitiated insofar as no Committee had been formed for the purpose of rent fixation and holding that the fixation of rent had been in violation of the principles of justice.

3.In conclusion, the notices for enhancement of rent had been set aside and a Committee directed to be formed comprising the Commissioner of the Vellore Municipal Corporation as Chairman along with four other members to determine the rent as on 01.07.2016. The Committee was directed to complete the exercise within a period of six months from date of receipt of a copy of that order after affording an opportunity of hearing the appellants.

4.Undoubtedly, the present petitioners were not appellants before the Bench. However, there are occupants of shops in Vellore in circumstances identical to those faced by the appellants in the writ appeals discussed supra. Hence, in my considered view and there is no objection made by the learned respondent counsel in this regard, the benefit of order dated 01.08.2018 should be fully available to them as well.

5. At para 11 of the decision the Bench notes as follows:
".....



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11. It is brought to our notice that the appellants have been paying 50% of the enhanced amount as per the interim orders passed during the pendency of the Writ Petitions. They shall continue to pay the same till such time, the Committee takes a final decision as per out direction supra. If rent fixed by the Committee is lower than the rent that is already paid by the respective allottees the differential amount will be adjusted towards the future payment in the event of the appellants opting to pay the higher rent in continue the possession. If the rent fixed is more than the amount paid the appellants shall pay the balance amount along with arrears in order to enable them to continue in possession."

6.To ascertain compliance of the present petitioners in regard to payments of enhanced amounts as in the case of other petitioners, I direct R3 to ensure that 50% of the enhanced amount for the period in dispute and till date, has been remitted by all petitioners as per the decision of Division Bench.

7.I am given to understand that the Committee has met and re-fixed the rent in line with the directions and observations of the Division Bench at para 11 extracted supra, i.e., if the rent fixed by the Committee is lower than the rent that was already paid by the respective allottees, the differential amount would be adjusted towards future payments. If the rent fixed is more than the amount paid earlier and in the event the appellants opt to pay a higher rent to continue in possession. They shall pay the enhanced rents along with arrears in order to enable them to continue in possession. This exercise will be completed within a period of four (4) weeks from today after hearing all the petitioners.

8.This Writ Petition stands disposed as above. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-I)

//True Copy//

Sub Assistant Registrar

sl/kbs



To

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai-600 009.
2. The Director of Municipal Administration,
Municipal Administration Department,
Ezhilagam, Chepauk, Chennai - 600 005.
3. The Commissioner,
The Corporation of Vellore,
Vellore District.

+1cc to M/s.Kamachi, Advocate, S.R.No.19009

+1cc to the Government Pleader, S.R.No.19903

W.P.No.18555 of 2019 &
WMP.Nos.17870, 17871 & 17873 of 2019

AD(CO)
RGA(22/04/2022)