



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2022

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.21052 OF 2019

&

WMP.NOS.7887 OF 2022 & 17972 OF 2021

G.Anbu

... Petitioner

Vs

1. The Commissioner,
Thiruvathipuram Municipality,
Cheyyar, Tiruvannamalai District - 604 407.

2. The Municipal Engineer,
Thiruvathipuram Municipality,
Cheyyar, Tiruvannamalai District - 604 407.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to refix the rent amount for the guideline value of KONNERIRAYAN Thopu Street for the Hotel run by the petitioner in the name of Ashoka Hotel situated at No.24/541, Thiruvathipuram Bus Stand, Municipal Building, Cheyyar, Tiruvannamalai District on the basis of the representation given by the petitioner on 25.06.2019.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.V.Jayaprakash Narayanan

O R D E R

Heard Mr.D.Rajagopal, learned counsel for the petitioner and Mr.V.Jayaprakash Narayanan, learned counsel for the respondents.

2. The petitioner has sought a mandamus directing the respondents to re-fix the guideline value of KonnerirayanThoppu Street for the hotel run by the petitioner under the name and



style of 'Ashoka Hotel' at No.24/541, Thiruvathipuram Bus Stand, Municipal Building, Cheyyar, Tiruvannamalai District.

3. The petitioner claims to have filed a representation on 25.06.2019 seeking the same relief. Before proceeding with the merits of the petitioner's request, it is relevant to consider the submissions of Mr.Narayanan, who circulates a copy of the order of this Court in W.P.No.20136 of 2014 filed by this very petitioner seeking a mandamus directing the Municipality to consider the representation filed on 19.07.2014 in light of G.O.Ms.No.92, Municipal Administration and Water Supply (Na.Ni.4), dated 03.07.2007.

4. That Writ Petition was considered by this Court and dismissed by a learned single Judge, the subject matter of challenge being as re-fixation of guideline value, as in the present case. However, the petitioner has conspicuously left out the reference to the aforesaid Writ Petition and the order passed. Paragraph 3 of that order refers to the contentions of the petitioner that are almost identical to the present one, which are that the respondents, while re-fixing the next based upon prevailing guideline value, have to adopt a humane and practical approach. A specific argument was advanced to the effect that the guideline value had been reduced by 33% by the State at that time.

5. Per contra, the respondents' contention has been captured in paragraph 4 of the order. Reference is made to the very same GO. as relied upon now by the petitioner. In conclusion, the Court relies upon the ratio of the Division Bench of this Court in P.V.Subramanian V. Secretary to Government (2014 (5)MLJ 129), wherein the Bench has held that a licence could well be converted into one of lease and that the object of letting out of the shop is for enhanced revenue to the Municipality or Corporation. Thus, the revision must be based upon prevailing market value and not otherwise. Furthermore, they hold that any extension granted to the licensee is only by way of concession and cannot be sought as a matter of right.

6. Applying the ratio of the aforesaid decision, this Court held that the petitioner's contention has no merits. In fact, the Court has gone to the extent of saying that if there is any failure on the part of the petitioner in paying the enhanced rent, the respondents may go ahead with auction and if there is any challenge to the same and the petitioner continues to function in the same place on account of any litigation or interim order, the petitioner was deemed to have vacated the premises and the respondents could evict the petitioner with the help of police force, if found necessary.



7. This order, and the aforesaid facts are consciously suppressed by the petitioner and thus, this Writ Petition stands dismissed with costs of Rs.10,000/-, payable to Blue Cross, No.1 Eldams Road, Chennai, within a period of two weeks from today. Proof of payment be filed with the Registry. Connected Miscellaneous Petitions are also dismissed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Thiruvathipuram Municipality,
Cheyyar, Tiruvannamalai District - 604 407.
2. The Municipal Engineer,
Thiruvathipuram Municipality,
Cheyyar, Tiruvannamalai District - 604 407.
3. The Secretary,
Blue Cross, No.1 Eldams Road,
Chennai.

Copy To

The Section Officer,
Writ Section,
High Court, Madras.

+1cc to Mr.V.Jayaprakash Narayanan, Advocate, S.R.No.23721

+1cc to Mr.D.Rajagopal, Advocate, S.R.No.23752

W.P.No.21052 of 2019 &
WMP.Nos.7887 of 2022 & 17972 of 2021

KK(CO)
RLP(25/04/2022)