



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2022

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) .Nos.1641, 1642 and 1643 of 2022

and

W.M.P. (MD) .Nos.1450, 1454 and 1456 of 2022

W.P. (MD) .No.1641 of 2022

I.Soundarabalan

... Petitioner

Vs.

The Commissioner,
Turicorin Municipality Corporation,
Tuticorin.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order in Na.Ka.No.16/2700/2016 dated 29.11.2021 on the file of the respondent and quash the same and further directing the respondent to refix the rent for Shop No.16, Municipal building, Great Cotton Road, Tuticorin by considering the petitioner's objection dated 20.01.2022.

W.P. (MD) .No.1642 of 2022

C.N.Dharmaraj

... Petitioner

Vs.

The Commissioner,
Turicorin Municipality Corporation,
Tuticorin.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order in Na.Ka.No.16/2700/2016 dated 29.11.2021 on the file of the



respondent and quash the same and further directing the respondent to refix the rent for shop No.3, Municipal building, Great Cotton Road, Tuticorin by considering the petitioner's objection dated 20.01.2022.

W.P. (MD) .No.1643 of 2022

Thangaraj

... Petitioner

Vs.

The Commissioner,
Tuticorin Municipality Corporation,
Tuticorin.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order in Na.Ka.No.16/2700/2016 dated 29.11.2021 on the file of the respondent and quash the same and further directing the respondent to refix the rent for shop No.6, Municipal building, Great Cotton Road, Tuticorin by considering the petitioner's objection dated 20.01.2022.

For Petitioners : Mr.G.Prabhu Rajadurai
(In all Writ Petitions)

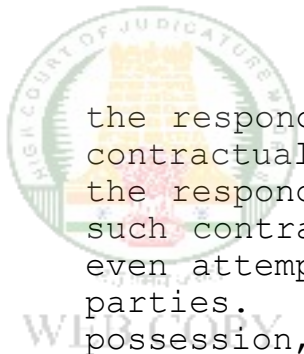
For Respondent : Ms. Barathi
For Mr.S.Saji Bino
Standing Counsel.
(In all Writ Petitions)

COMMON ORDER

Heard Mr.G.Prabhu Rajadurai, learned counsel for the petitioners and Ms.Barathi who is apparently attached to the office of Mr.S.Saji Bino, learned Standing Counsel for Tuticorin Municipality Corporation who is also present through vide conference.

2. All the three Writ Petitions had been filed in the nature of Certiorarified Mandamus seeking interference with a notice which the petitioner claims is an order which had been signed on 29.11.2021 which are identical in nature issued by the respondent.

3. The petitioners also seek a direction that this Court must fix the rent for the petitioners' occupation of shops in Shop Nos.16, 3 and 6 all at Municipal building, Great Cotton Road, Tuticorin. The petitioners are the lessees under the respondent. Naturally, the nature of relationship between the petitioners and



the respondent has drifted into a contractual relationship. Once a contractual relationship is established between the petitioners and the respondent, a Writ Court under Article 226 can never enter into such contract or even attempt to interpret a particular covenant or even attempt to thrust a particular clause on either one of the two parties. The contract having been entered to hand over of possession, to continue to be in possession, to accept the possession as a lease with an obligation to pay the rents towards such possession, had been with free will and voluntary a thought process of both the petitioners and the respondent herein.

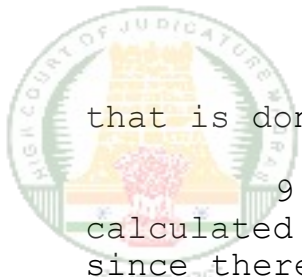
4. The petitioners are aggrieved that the monthly rent had been, according to the learned counsel increased by the respondent without forwarding, what the learned counsel called, the report of the committee. The report of that particular committee assumes significance in view of an earlier Writ Petition filed in very similar circumstances in W.P.(MD).Nos.1806, 1807 and 1818 of 2017 by the three writ petitioners. Those Writ Petitions were also filed, questioning the increase in the monthly rent from around Rs.1700/- which was the rent prior to 2017 to Rs.12,862/- on and from 2017. When those Writ Petitions came up for consideration, a learned Single Judge had directed to pay 50% of the enhancement and had also observed that a committee report had not been forwarded and directed the respondent to forward a copy of the committee report and also a calculation memo as to how the respondent arrived at that particular amount of rent.

5. Later in the year 2017 itself, the calculation memo had been forwarded. Once that had been done, an obligation was placed on the petitioner herein to either raise objections or to comply with the payment of the entire amount in accordance with the calculation. The petitioners did not do either. They continued to enjoy possession in view of the order granted, namely to pay 50% of the enhanced amount. They have done so for the past four years.

6. Now, in the year 2021, the respondent had again issued a notice which is now impugned, again determining the rent and calling upon the petitioner herein to pay the rent with arrears. It is stated that similar order as was passed in the year 2017 should be passed by me.

7. I refuse to do so.

8. The petitioner is in possession and there is an obligation to pay the rent. When the calculation memo was submitted and forwarded in the year 2017, the petitioner should have voluntarily paid the entire amount as stated in the calculation memo. Now, at this stage, various points are stated by the learned counsel claiming that the calculation memo should not be viewed with sanctity. It is claimed that the buildings as a ground and one



that is done, the value of the rent would be stipulated.

9. It is also stated that the rent had also been calculated for provision of latrine and water and it is stated that since there is no water supply, there cannot be any facility used by the petitioners even though the latrine available.

10. These are all facts to the knowledge only of the petitioners and if the petitioners has any grievances about non providing of water and therefore non usage of latrine, they should have taken up that issue but cannot hold up that issue as a reason for not to pay enhanced rent. These are issues which stare in the face of the petitioner and it is clear that the petitioners only seeks to avoid payment of any rent much less than enhanced rent.

11. If the petitioners are not interested in paying the rent, they can take a decision to vacate and move away from the shops and and let another person who is interest in paying the rent take it over. The writ petitions are misconceived herein.

12. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Nsr

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The Commissioner,
Turicorin Municipality Corporation,
Tuticorin.

+3 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-3787[F] dated 02/02/2022)

W.P. (MD) .Nos.1641, 1642 and 1643 of 2022
01.02.2022