



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.7368 of 2022

and W.M.P. (MD) .No.5589 of 2022

K.Balakrishnan

.. Petitioner

Vs

1.The Assistant Director of Panchayats,
Office of the Assistant Director,Tuticorin.

2.The Executive Officer,
Vilathikulam Town Panchayat,Vilathikulam Taluk,
Tuticorin District. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the refixing the exorbitant rent by the impugned notice cum order issued by the 2nd respondent in Na.Ka.No.45/2022, dated 05.04.2022, relating to shop No.4 and quash the same.

For Petitioner : Mr.S.Natarajan

For Respondents : Mr.D.Sasikumar for R1

Additional Government Pleader

Mr.G.V.Vairam Santhosh for R2

Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned notice of demand issued by the second respondent, dated 05.04.2022, calling upon the petitioner to pay the arrears of rent.

2.According to the petitioner, the impugned demand is arbitrary and illegal. According to him, without adhering to the directions given by this Court on 11.04.2019, in W.P.(MD).Nos.13121, 13122 and 19547 of 2015, the impugned demand notice has been issued calling upon the petitioner to pay an exorbitant interest. Under the order, dated 11.04.2019, referred to supra, this Court had directed the second respondent, who is the petitioner's landlord, to redetermine the rent by applying the formula of fixing fair rent as provided under the relevant Rent Control Act. A direction was also issued by this Court to the second respondent to put the petitioner on notice and after obtaining the petitioner's explanation, pass final orders. According to the petitioner, without following the directions of this Court in the aforementioned order, arbitrarily and illegally, the impugned demand has been made refusing the rent payable by the petitioner and also calling upon the petitioner to pay the arrears in accordance with the revised rent fixed by the second respondent. In such circumstances, the petitioner has filed this writ petition.



3.Heard Mr.S.Natarajan, learned counsel appearing for the petitioner, Mr.D.Sasikumar, learned Additional Government Pleader, who accepts notice on behalf of the 1st respondent and Mr.G.V.Vairam Santhosh, learned Additional Government Pleader, who accepts notice on behalf of the 2nd respondent.

4.On instructions, the learned Additional Government Pleader, appearing for the second respondent would submit that the impugned notice is only a demand notice and it is not an eviction order. He disputes the contention of the learned counsel for the petitioner. However, he would submit that in case the petitioner is having any grievance, he can submit a reply to the impugned notice and the same will be considered by the second respondent on merits and in accordance with law. The said statement is recorded.

5.No prejudice will be caused to any of the parties if the aforementioned exercise as suggested by the learned Additional Government Pleader is done. Therefore, this Court treats the impugned demand as a show cause notice issued by the second respondent and the petitioner is permitted to send a reply to the same and thereafter, after affording a fair hearing to the petitioner, including granting him the right of personal hearing, the second respondent shall pass final orders. The petitioner's interest is adequately protected, by this process.

6.For the foregoing reasons, this Court directs the petitioner to submit a reply to the impugned demand notice, dated 05.04.2022, within a period of two weeks from the date of receipt of a copy of this order along with supporting documents and on receipt of the said reply the second respondent shall pass final orders, within a period of twelve weeks, thereafter, after affording a fair hearing to the petitioner, including granting him the right of personal hearing. Till final orders are passed, the petitioner's possession of the shop shall not be disturbed by the second respondent. The petitioner shall continue to pay the rent which he has been paying all along till date without committing any default.

7.With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

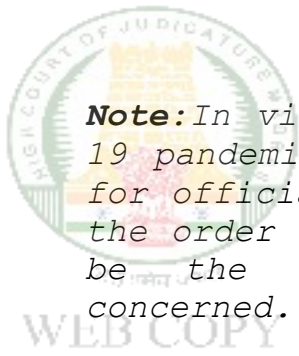
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/ /2022

Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



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

1.The Assistant Director of Panchayats,
Office of the Assistant Director,
Tuticorin.

2.The Executive Officer,
Vilathikulam Town Panchayat,
Vilathikulam Taluk,
Tuticorin District.

+1 CC to M/s.S. NATARAJAN, Advocate (SR-19983[F] dated 21/04/2022)

W.P. (MD)No.7368 of 2022
20.04.2022

NSN(CO)
KB(09.05.2022) 3P 4C