



W.P.(MD)Nos.3855 to 3857 & 5948 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :21.12.2022

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THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)Nos.3855 to 3857 & 5948 of 2014

and

M.P.(MD).Nos.1, 1, 1 & 1 of 2014

W.P.(MD).No.3855 of 2014

P.V.Makudapathy

... Petitioner

Vs.

The Karur Municipality
Rep by its Commissioner,
Karur District.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the impugned notice vide Na.Ka.No.A6/4041/10 issued by the respondent and quash the same.

For Petitioner :Mr.T.Antony Arul Raj

For Respondents :Mr.K.Balasubramani



W.P.(MD)Nos.3855 to 3857 & 5948 of 2014

W.P.(MD).No.3856 of 2014

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S.Chinnammal

... Petitioner

Vs.

The Karur Municipality
Rep by its Commissioner,
Karur District.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the impugned notice vide Na.Ka.No.A6/4041/10 issued by the respondent and quash the same.

For Petitioner :Mr.T.Antony Arul Raj

For Respondents :Mr.K.Balasubramani

W.P.(MD).No.3857 of 2014

S.Subramani

... Petitioner

Vs.

The Karur Municipality
Rep by its Commissioner,
Karur District.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the impugned notice vide Na.Ka.No.A6/4041/10 issued by the respondent and quash the same.



W.P.(MD)Nos.3855 to 3857 & 5948 of 2014

For Petitioner :Mr.T.Antony Arul Raj

For Respondents :Mr.K.Balasubramani

W.P.(MD).No.5948 of 2014

K.Murugaraj

... Petitioner

Vs.

The Karur Municipality
Rep by its Commissioner,
Karur District.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the impugned notice vide Na.Ka.No.A6/4041/10 dated 07.02.2014 r/w Na.Ka.No.749/2013 dated 27.03.2014 issued by the respondent.

For Petitioner :Mr.T.Antony Arul Raj

For Respondents :Mr.K.Balasubramani

COMMON ORDER

These writ petitions have been filed challenging the order passed by the respondent for fixing rent for the shops allotted to the petitioners.



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2. The learned counsel for the petitioner would submit that the petitioner have not been allotted area as shown in the impugned order. He would rely upon the sketch annexed to the order of allotment and contend that the area shown in the order of allotment is smaller than the area, for which the rent has been fixed. He would further contend that the rent has been fixed contrary to the undertaking given by the respondent before this Court in W.P.(MD).No.394 of 2012. He would further contend that as per the undertaking, the actual area that has been given to the petitioners and the rent fixed by the respondent under the impugned order are fully contrary and therefore, seeks interference of this Court.

3. Countering his arguments, learned counsel for the respondent would submit that the petitioners have been allotted new shops and therefore, the rent has been fixed taking into account the rate prescribed by the Public Works Department. Therefore, there is no infirmity in the impugned order. He would dispute that the area intimated in the impugned order is the actual area that has been allotted to the petitioners. Hence, he would pray this Court to dismiss this writ petition.



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4. I have considered the rival submissions made by the learned counsel appearing on either side.

5. When the petitioners were sought to be evicted earlier, they had approached this Court by way of W.P.(MD).Nos.394 and 2720 of 2012. When these matters were taken up for hearing, an affidavit of undertaking was filed by the respondent, indicating that the petitioner would be given alternative accommodation.

6.This Court finding that the affidavit did not contain the particulars as regard to the area and the rent had directed the respondent to furnish such particulars. Pursuant to the said directions, the particulars were submitted by the respondent indicating the area and the rent before this Court. The rent would be at Rs.18/- per sq.ft., for the shops to be allotted. Recording such an undertaking, this Court had disposed of the writ petition. Pursuant to the said undertaking, the petitioners were also allotted shops by the respondent vide proceedings issued in June, 2012. Thereafter, by the impugned notice dated 07.02.2014, the respondent had called upon the



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petitioners to pay the rents based upon the areas that has been noted in the said impugned orders. Calculating the rent for the area indicated in the impugned order, the rate of Rs.31.38/- per sq.ft., has been fixed as the rent. It is contrary to the undertaking that has been given by the respondent in the earlier proceedings before this Court.

7.In view of the same, the rent that is fixed under the impugned notices are set aside and the respondent is directed to calculate rents at Rs. 18/- per sq.ft., as per the undertaking given by the respondent before this Court in W.P.(MD).Nos.394 and 2720 of 2012. However, liberty is given to the respondent to increase the rent as per the rules.

8.The other dispute is with regard to the area. This dispute can be resolved by the respondent by measuring the shops allotted to the petitioner in the presence of the petitioners. Once this exercise is done, the respondent shall calculate the rent at Rs.18/- per sq.ft., for the period from June 2012 and thereafter demand the rent at the increased rate as provided under the rules.



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9. In view of the aforesaid observations, the impugned orders are set aside and the respondent is directed to re-visit the rent, as indicated above. Accordingly, these writ petitions are allowed as indicate supra. No costs. Consequently, connected miscellaneous petitions are also closed.

21.12.2022

Index : Yes / No
Speaking Order/Non Speaking Order
sbn

To

The Karur Municipality
Rep by its Commissioner,
Karur District.



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K.KUMARESH BABU, J.

sbn

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