



W.P.(MD)No.24673 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED 31.10.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD)No.24673 of 2022
and
W.M.P.(MD)No.18790 of 2022

R.Palaniammal

..Petitioner

Vs

The Commissioner,
Karur Corporation,
Corporation Office,
Karur.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent herein not to interfere with the Petitioner's peaceful possession and enjoyment as a lessee of Shop No.30, New Bus Stand, Karur, till the implementation of the final order, dated 04.12.2020 passed in W.P(MD)Nos.17518 of 2020 and batch before this Court, by considering the representation, dated 21.06.2022.

For Petitioner :Mr.V.Meenakshisundaram

For Respondent :Mr.K.Balasubramani
Standing Counsel

ORDER

This Writ Petition is filed seeking issuance of a Writ of Mandamus, directing the respondent herein not to interfere with the Petitioner's peaceful



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possession and enjoyment as a lessee of Shop No.30, New Bus Stand, Karur, till the implementation of the final order, dated 04.12.2020 passed in W.P(MD)Nos.17518 of 2020 and batch before this Court, by considering her representation dated 21.06.2022.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The Petitioner is the lessee of Shop No.30, situated at New Bus Stand, Karur. The shop was taken in auction and she was doing small business therein. The shop is with RCC roof and 60 sq.ft. with AC Sheet. The tax assessment for the shop is different and the rent for the shop was increased periodically as per G.O.Ms.No.92, dated 03.07.2007. The petitioner is paying tax amount, rent as well as GST periodically. The Petitioner is having no arrears of rent and paid the lease amount till February, 2018. While so, the respondent-Municipality has issued the impugned notice in Na.Ka.No.2196/2016/A6, dated 04.07.2017, refixing the lease amount at Rs.25,000/- per month with effect from July 2016. The fixation of the enhanced lease amount is as per the existing market value of the shop, for which, no notice was issued to the lessees and no enquiry was conducted and it is an unilateral fixation without any basis and also not in



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accordance with law. Challenging the above re-fixation of rent, W.P(MD)No. 4448 of 2018 etc., batch were filed before this Court and this Court, vide common order, dated 09.10.2018, granted an order of interim stay and as per the counter affidavit filed by the respondent, the respondent herein accepted for formation of re-fixation Committee for fixation of fair rents and as per the direction given by this Court in W.A(MD)Nos.757, 760, 761 and 1189 of 2018, dated 24.07.2018. This Court, by common order, dated 29.11.2018 in W.P(MD)Nos.4448 of 2018 etc. batch, passed the following order:-

"....11.Accordingly, the Petitioners are at liberty to approach the members of the committee, viz., the Regional Director of Municipal Corporation, Salem, the Commissioner, Karur Municipality, the Revenue Officer, Karur Municipality, the Town Planning Officer, Karur Municipality and the Municipal Engineer, Karur Municipality and when the Committee invites for a hearing, the Petitioners shall appear before the committee and raise their defences or objections, if any and the authorities concerned, after considering the present situation, can refix the lease amount accordingly. It is also made clear that the Petitioners cannot again raise the issue of arbitrariness.

12.With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed."



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4. On the basis of the above order, the respondent sent notice on 29.03.2019 for enquiry on 12.04.2019 before the Committee constituted as per the order of this Court. Thereafter, the Petitioner's husband has submitted a representation dated 08.05.2019 before the Re-fixation Committee. In the meantime, the respondent by violating the above order, has passed an order on 02.12.2019, which was served on the Petitioner on 04.12.2019, fixing the rent without following the order of this Court. Challenging the same, the Petitioner's husband filed W.P.(MD)No.23627 of 2019 and several other Writ Petitions were filed before this Court, in which, an interim direction was issued on 12.12.2019, directing the respondent to form a re-fixation committee, which reads as follows:-

"10. In view of the above, it is now agreed by both parties that the rent may be re-fixed afresh by the Rent Re-fixation Committee. Therefore, in the light of the above discussions, the following order is passed:

(1) The Rent Re-fixation Committee consisting of the Regional Director of Municipal Corporation, Salem, the Commissioner, Karur Municipality, the Revenue Officer, Karur Municipality, the Town Planning Officer, Karur Municipality and the Municipal Engineer, Karur Municipality has to consider the objections of the Petitioners by affording them an opportunity of personal hearing and also written objections before passing order. It is stated by the Petitioners



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that on behalf of all the Petitioners, there will be two representatives, who would represent their case.

(ii)As already objections are raised that Mr.Ashok Kumar, the Regional Director, who was the Commissioner of Karur Municipality is a part of the Committee, this Court is of the view that any other Regional Director may be the member of the Rent Refixation Committee other than the said Mr.Ashok Kumar, Karur Regional Director.

(iii)The Petitioners would deposit the entire amount demanded in the impugned notice in two installments. The Petitioners have to deposit 50% of the amount mentioned in the impugned notice within a period of fifteen days from the date of receipt of a copy of this order, as first installment and the second installment should have been paid on or before the next date of hearing before this Court namely, 20.01.2020. The said deposits are without prejudice to the rights and contentions of the Petitioners, as if the refixed rent is less, it can always be adjusted with future amounts payable.

(iv)The Rent Refixation Committee is directed to fix the date of hearing at the earliest and intimate the same to the Karur Bus stand inside and outside Shops lessees Welfare Association represented by one Mr.Raju and also to the learned counsel appearing for the Petitioners herein. The individual Petitioners cannot demand service of notice on



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them, as it is already agreed that service of notice on the above mentioned people is sufficient.

(v)The Rent Refixation Committee has to complete the above exercise of giving notice calling for objections affording opportunity of personal hearing for their counsel and one of the representatives, considering and refixing the rent as per the norms to be adopted, before the next date of hearing i.e., on 20.01.2020 and report to this Court on 20.01.2020.

11.Post the Writ Petition on 20.01.2020".

5.The said committee submitted its final report on 18.01.2020 before this Court, indicating the rent refixed for all the shops and the rent was refixed at many folds and aggrieved by the same, the shop owners have expressed their grievance before this Court and this Court by order, dated 29.01.2020 passed the following order:-

"4.The Rent Refixation Committee consisted of the Regional Director of Municipal Corporation, Salem, the Commissioner, Karur Municipality, the Revenue Officer, Karur Municipality, the Town Planning Officer, Karur Municipality and the Municipal Engineer, Karur Municipality. Pursuant to the orders of this Court, dated 12.12.2019, the Rent Refixation Committee had completed the task by affording an opportunity



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of personal hearing to the learned counsel representing the Petitioners and filed a report, dated 18.01.2020. A copy of the same was furnished to the Petitioners also. The tabular column indicating the refixed rent by the Rent Refixation Committee is also furnished.

5.The learned counsel appearing for the Petitioners contended that the rent was fixed by taking into account the maximum of the rent paid for any private building. Therefore, the rent fixed was reduced for some and it was enhanced for a few and for some, the same rent was fixed without any modification by the Rent Refixation Committee.

6.The learned counsel for the Petitioner would submit that there will be some rules in this regard for fixation of rent by the Municipality of the State, for which the learned Special Government Pleader appearing for the respondents 1 and 2 would state that, as early as in the year 2000, G.O.Ms.No.147, Municipal Administration and Water Supplies Department, dated 30.12.2000 was issued wick describes the method in which rentals should be fixed. The said G.O clearly and categorically describes the motive in which the fair rent should be fixed for the shops belonging to the third respondent Municipality. As the above exercise of fixing the fair rent by the Rent Refixation Committee was done with the consent of the Petitioners as well as the respondents, the Petitioners could not have any grievance.



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7. Therefore, the report of the Rent Refixation Committee along with the statement of the rent payable by the Petitioners, fixed by the Committee is taken on record and the Petitioners herein, are directed to pay the rent as per the same without any default.

8. The learned Senior Counsel appearing on behalf of the Petitioners seeks liberty to challenge the said report of the Committee in the manner known to law, though it was stated that there is no such provision for the same. However, any challenge upon the report of the Committee can be done by any of the Petitioners only on payment of the entire arrears and also on continuance to pay the rent as fixed by the Rent Refixation Committee, subject to the outcome of any such challenge that may be made.

9. With these directions and observations, the batch of Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed."

6. However, the order of the re-fixation committee was served on the shop owners after a gap of five months along with notice, dated 19.06.2020, received on 10.07.2020, with calculation of entire arrears, GST, deposit amount in pursuance of the orders made in W.P(MD)Nos.26256 of 2019 etc. batch. The



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Petitioner has challenged the above notice before the Commissionerate of Municipal Administration on many grounds. While so, the above said batch of Writ Petitions were disposed of on 29.01.2020 and the said orders were issued to the shop owners only in the middle of COVID-19 Pandemic. However, both the Central and State Governments stated that they are liberal in collecting the dues from the lessees. As the shop owners are in arrears of rent, the re-fixation committee directed them to pay the arrears, for which, they have paid considerable amount, which was not considered by the respondent. In view of the above factual position, the shop owners have made representations to keep the notice, dated 19.06.2020 in abeyance, till the disposal of the appeal filed before the first respondent. In order to avoid any coercive steps being taken by the authorities, the shop owners have filed separate Petitions in W.P(MD)Nos. 7895 to 7906 of 2020 and this Court, by common order, dated 23.07.2020, disposed of the Writ Petitions with following direction:-

".....6.But then, the Petitioners cannot seek to prolong the matter. Therefore, the first respondent is mandated to dispose of the appeals filed by the Petitioners on merits and in accordance with law within a period of two months from the date of receipt of a copy of this order. Till the first respondent takes a decision, status quo as on date will continue. In other words, the Writ Petitioners will not be dispossessed on the



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ground that they have not cleared the rental arrears.

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7. With these directions to the first respondent, these Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed."

7. The Commissionerate of Municipal Administration taking note of the above said order, without following the due procedure of law has rejected the appeals on the ground that there is no statutory provisions available in law to refix the rent. In the meantime, the respondent adjusted the amount already paid towards arrears of rent and informed the shop owners to pay the balance amount. Hence aggrieved by the same, the shop owners have filed W.P.(MD)Nos.17518 of 2020 etc. batch and this Court by order, dated 04.12.2020 and 22.12.2020 in another batch of Writ Petitions, have quashed the said order passed by the authorities and remanded the matter back to the Commissionerate of Municipal Administration for fresh consideration and the said order reads as under:

"....7. For the foregoing reasons, this Court is of the considered view that the impugned order passed by the first respondent is arbitrary and has violated the principles of natural justice and hence, the same has to be quashed. Accordingly, the impugned order, dated 14.09.2020 and consequential demand notice dated 13.10.2020 are hereby



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quashed and the matter is remanded back to the first respondent for fresh consideration. The first respondent shall pass final orders on merits and in accordance with law, after affording sufficient opportunity of personal hearing to the respective petitioners, within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the aforesaid direction, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous Petitions are closed."

8. The above authorities neither conducted an enquiry nor issued any notice and based on the order, dated 22.12.2020, in a batch of Writ Petitions held that the Municipal Council alone is the competent authority to issue public tender-cum-auction proceedings. As the earlier proceedings of the Municipal Council, dated 13.10.2020, was quashed by this Court, the respondent was directed to refix the rent afresh by considering the grievance of the shop owners/lessees. However, the respondent has threatened the shop owners to pay the arrears of rent as per the rent fixed by the Municipal Council, which order was already quashed by this Court. In the meantime, the shop owners have submitted representations to renew their respective licence and refix the rent by taking into consideration their grievance. Without considering the same, the respondent has insisted for more rent without any basis and



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threatening to lock and seal the premises. The respondent, without considering the orders of this Court, while refixing the rent has finalized the rent for the said shops and has now decided to construct a new Bus Stand and the said work is in progress. Hence, the Petitioner has filed this Writ Petition for the relief stated supra.

9.The learned Standing Counsel for the respondent/Commissioner would submit that various litigations are pending between the Petitioner and the respondent. However, the Petitioner has paid the arrears, which was received by the municipal authorities. He would further submit that there is no threatening made to the shop owners and also not insisted for payment of arrears of rent and they have not disturbed the possession of shop by the Petitioner and they will not dispossess the petitioner at any point of time. As per the orders of this Court, already a Committee was formed to refix the rent.

10.During the previous litigations, Karur stood as a Municipality and thereafter subsequently, it was upgraded as Corporation, for which, there is a statutory committee for fixation of rent.



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11. In view of the above stated position, the Statutory Committee of the respondent Corporation is directed to conduct meeting regarding re-fixation of rent for the shops in question on merits and in accordance with law, after affording an opportunity of hearing to all the parties concerned. On such rent being re-fixed, the Petitioner is directed to pay the arrears of rent, as re-fixed by the respondent, within the time limit prescribed by the respondent, failing which, the respondent is directed to vacate the Petitioner from the shop in question, by following due procedure of law. The above said procedure shall be completed, within a period of eight weeks from the date of receipt of a copy of this order. The respondent is directed to issue notice to the Petitioner by Registered Post with acknowledgment due. The Petitioner is directed to appear before the respondent/authorities on the date mentioned in the said notice, without fail and to express her grievances regarding re-fixation of rent for the shop in question.

12. With these directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes/No
Internet: Yes/No
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To

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V.BHAVANI SUBBAROYAN, J.

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ORDER MADE IN

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