



Writ Petition Nos.12537 and 12538 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20/1/2023

C O R A M

THE HONOURABLE Mr.JUSTICE N. SATHISH KUMAR

Writ Petition Nos.12537 and 12538 of 2018

a n d

W.M.P.Nos.14679 and 14681 of 2018

W.P.No.12537 of 2018

1. S. Raja
2. M. Ravichandran
3. R. Baby
4. V. Pakkirisamy
5. S. Kumar
6. P. Thavamanikandan
7. P. Lalitha
8. D. Revathi
9. S. Duraisamy
10. A. Vaidiyanaathan
11. V. Rajendran
12. R. Vadivel
13. V. Balamuragn
14. V. Raji
15. K.S.Raja
16. R. Saravanan
17. S. Sivakumar
- 18.N. Rajamanickam
- 19.Sekar
- 20.V. Venkatesan
- 21.V. Rengaraj @ Rangasamy
- 22.Kumaraguru
- 23.U. Soman
- 24.D. Rajendran
- 25.K. Nagaraj



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26.Pon.Ravi
27.P. Sanmugam
28.P. Somasundran
29.D. Anandan
30.K. Muruganandam
31.V. Rajendran
32.K.Thilakam
33.S.Suresh
34.P.Selvaraj
35.N.Kadiresan
36.K. Pattammal
37.R. Selvam
38.S. Susila
39.G.Sampath Kumar
40.P.Thillaigovindan
41.P.Vinodh
42.P.Sattanathan
43.K. Subramanian
44.K.S.Srinivasa
45.R.Palaniammal
46.K.Manikandan
47.S.Gandhimathi
48.S.Mathi
49.Elumalai
50.B.ThillaiGovindan
51.K.S.Sivkumar
52.A.Gopalakrishnan
53.A. Alamelu

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Petitioners

Vs

1. The Secretary to Government
Municipal Administration and
Water Supply Department
Fort St. George
Chennai 600 009.



Writ Petition Nos.12537 and 12538 of 2018

2. The Commissioner
Virudhachalam Municipality
Virudhachalam
Cuddalore District.

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Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the impugned order/Notices bearing Na.Ka.No.976/2017/A2, dated 12/12/2017, consequently impugned Notice bearing Na.Ka.No.976/2017/A2 dated 8/1/2018 issued to the petitioners and consequential impugned Notice bearing Na.Ka.No.976/2017/A2 dated 22/2/2018 issued to petitioners 33, 34, 43, 44, 5 to 53 on the file of the second respondent and quash the same and further direct the second respondent to fix the rent at market rate.

a n d

W.P.No.12538 of 2018

1. B. Thillaigovindhan
2. R. Venkatesan
3. S. Venugopal
4. D. Rajendran
5. D. Vellaichami
6. Thavamanigandan

...

Petitioners



Writ Petition Nos.12537 and 12538 of 2018

Vs

WEB COPY

1. The Secretary to Government
Municipal Administration and
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Fort St. George
Chennai 600 009.

2. The Commissioner
Virudhachalam Municipality
Virudhachalam
Cuddalore District.

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Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the impugned order/Notices bearing Na.Ka.No.976/2017/A2 dated 12/12/2017 consequently impugned Notice bearing Na.Ka.No.976/2017/A2 dated 8/1/2018 issued to the petitioners on the file of the second respondent and quash the same as illegal, incompetence and without jurisdiction and further direct the second respondent to fix the rent at market rate.

For Petitioners

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Mr.V.Ramamurthy
for Ms.D.Kamachi

For respondents

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Mrs.R.Anitha
Special Government Pleader
for R.1
Mr.B.Anand
for R.2



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COMMON ORDER

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Writ Petitions have been filed to quash the impugned order/Notices dated 12/12/2017 and 8/1/2018 issued by the second respondent and further direct the second respondent to fix the rent at market rate.

2. Brief facts which are necessary for the disposal of these writ petitions are as follows:-

The petitioners are the lessees of the shops owned by the second respondent. The petitioners are involved in small trades/business like selling vegetables and fruits, rice, groceries, etc. Out of the meagre income derived from their business, petitioners and their family members are eking out their livelihood.

3. When the matter stood thus, the second respondent had issued impugned orders/Notices bearing Na.Ka.No.976/2017/A2, dated 12/12/2017 and 8/1/2018, wherein exorbitantly increased the monthly licence fee/rent of the shops by 6 times higher than the existing rents, which is not in accordance with the guidelines issued by the Hon'ble Supreme Court of India



and G.O.Ms.Nos.147, 92 and Circular issued by the respondents. Hence, the petitioners had submitted a representation, dated 1/1/2018, before the second respondent. Since the same has not been considered so far, the petitioners have come forward with the instant writ petitions, praying for the relief, as stated therein.

4. In the common counter filed by the second respondent, it is stated that licences granted to the petitioners, expired on 31/3/2017. As per G.O.Ms.No.92, dated 3/7/2007, Municipality had formed a Committee which decided to renew the license from 1/4/2017. The Committee passed an order, dated 6/11/2017, fixing the rent payable by the licensees and as per G.O.Ms.No.92, the same was offered to the petitioners, through notice, dated 12/12/2017.

5. It is further stated that lessees do not have vested interest to be in possession of shops indefinitely and the best way to fix the market rent is by way of public auction. The petitioners can participate in the auction and if they become successful, they can carry on the business.



6. The lease period of the petitioners expired on 31/3/2017 and the same is not extended any further. The rent fixed by the second respondent is reasonable in consonance with the prevailing market value of the locality. Hence opposed the writ petitions.

7. Heard Mr.V.Ramamurthy, learned counsel for the petitioner and Mrs.R.Anitha, learned Special Government Pleader for the first respondent and Mr.B.Anand, learned counsel for the second respondent.

8. Learned counsel appearing for the petitioners submitted that rent has been hiked 600 times, without following the guidelines issued by the Hon'ble Supreme Court and G.O.Ms.Nos.147, 92 and Circular issued by the respondents. Before enhancing the licence fee, no notice has been served on the petitioners.

9. Learned counsel appearing for the second respondent submitted that most of the petitioners/licensees sublet the shops to various third parties. Committee headed by the Regional Director, passed an order, dated 6/11/2017, fixing the rent payable by the licensees, as per G.O.Ms.No.92. After arriving at the market rent, second respondent had issued a notice,



dated 12/12/2017, to all the lessees informing the market rent prevailing for their shops and called upon them to give their consent for the same to renew the lease for further period.

10. Learned counsel appearing for the petitioners brought to the notice of this Court to the order, dated 25/7/2018, made in W.A.Nos.762 to 764 of 2018, wherein, the Hon'ble Division Bench, taking note of the fact that except issuing notice, no evidence is available on record to show that present occupants were put on notice and acknowledgement was obtained and finally set aside the order and directed the Committee to refix the rent payable after giving notice to the occupants.

11. Though it is stated in the counter that Committee has taken various consideration, particularly, to G.O.Ms.No.92 Municipal Administration & Water Supplies Department, dated 3/7/2007, on a careful perusal of the G.O., the Committee constituted has fixed the rent based on the market value. Therefore, obtaining the sanction from the Commissioner, concurrence has to be obtained from the petitioner. Thereafter, rent will be fixed. Though in the counter it is stated that notice has been sent for such concurrence, there is no materials available on record to show that notice was



served on the petitioners. The rent has been fixed 600 times higher than the existing rate. Photographs annexed by the petitioners would clearly show that the buildings are not pucca buildings and was covered with sheets.

12. It is also averred in the writ petitions that for “J” shop with four side brick walls with RCC roof, measuring about 160 sq.feet, situated on the main road, the enhanced rate is Rs.1,500/-. For the market “Thinnai shops” without four side walls and metal roofing on the top that too at the cost of the petitioners, measuring about 150 sq.feet, the enhanced rate is Rs.5,300/- and for the block shops with walls with RCC roof measuring 48 sq.feet, the enhanced rent is Rs.3,300/-. There is no materials available on record to show that on what basis higher rent has been enhanced for the ordinary shops.

13. In such a view of the matter, this Court is of the view that Committee headed by the Regional Director has enhanced the rent by not following proper procedure. Considering the fact that the petitioners are also not put on notice, this Court is of the view to set aside the orders passed by the second respondent.



14. It is relevant to note that in W.A.No.757 of 2018, etc., batch, dated 25/7/2018, the Hon'ble Division Bench has held as follows:-

“10. We find that the Committee constituted by the Commissioner of the fifth respondent Municipality is unwieldy in as much as it contains 11 members and the enhancement of rent also is nearly 10 times the existing rent. The learned counsel appearing for the Municipality would upon instructions submit that the Municipality is prepared to reconstitute the Committee and refix the rent payable by the occupants after giving notice to the occupants. Upon the determination of rent by the Committee after notice to the appellants, who are in occupation of shops belonging to the Municipality, the appellants shall decide as to whether they would continue to occupy by paying the higher rent or to vacate and handover the possession of land.



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11. The Committee to be formed by the Commissioner, Arani Municipality is directed to determine the rent afresh as on 1/7/2016. The process of re-fixation shall be completed at the earliest at any rate within a period of 6 months from the date of receipt of a copy of this order, after giving an opportunity of hearing to the present occupants/appellants before us. Such re-fixation shall take effect from 1/7/2016.”

15. In view of the above, petitioners are directed to deposit 50% of the enhanced rent, as fixed by the second respondent. On such payment, Municipality shall reconstitute a Committee and re-fix the rent payable by the occupants, after giving notice. At this stage, learned counsel appearing for the petitioners seek time to deposit 50%.

16. Accordingly, petitioners are directed to deposit 50% of the enhanced rent in two instalments. If rent fixed by the Committee is lower than the rent that is already paid by the respective allottees, the differential amount will be adjusted towards the future payment. If the rent is more than



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than the amount paid, the petitioners shall pay the balance amount along with arrears in order to enable them to continue in possession.

17. In the light of the above consensus reached between the parties, these writ petitions are allowed and the impugned orders, dated 12/12/2017 and 8/1/2018 are set aside. No costs. Consequently, the connected Miscellaneous Petitions are closed.

20/1/2023

Index : Yes / No
Internet: Yes
Speaking/non speaking order
Neutral Citation: Yes/No

mvs.

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N. SATHISH KUMAR, J



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