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W.P.Nos.21842 of 2023 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2023

CORAM

THE HON'BLE MRS. JUSTICE J.NISHA BANU

and

THE HON'BLE MRS. JUSTICE N.MALA

**W.P.Nos.21842, 21846, 21847, 21850, 20003,20008,20090, 22044,
22049, 20088, 20250, 20253, 20254,20265, 20269, 20276 , 20270,
20306, 20310, 20427, 20429, 20431, 20776, 20780, 20950,
20954, 20957, 20960, 21079, 21086, 21084, 21087, 21089, 21106,
21088, 21093, 21090,20195, 21098, 21103, 21138, 21144, 21162,
21166, 21168, 21344, 21348, 21347, 22804, 22809, 23011,
23016 and 20280 of 2023**

and

**W.M.P.Nos.21165, 21168, 21170, 21171,21173, 21174, 21177,
21178, 19359, 19362,19367, 19368, 19430, 19431, 21419, 21420,
21428, 21429, 19427, 19428, 19578 to 19583, 19598, 19599, 19605,
19608, 19617, 19619,19606, 19609, 19623, 19624, 19666,
19667, 19671, 19675, 19816, 19817, 19812, 19815,
19818, 19819, 20150, 20151, 20154,20155, 20323, 20325,
20326, 20328, 20334, 20335, 20338, 20339,
20462, 20464, 20473, 20476, 20471, 20472, 20475, 20478, 20479,
20480, 20505, 20506, 20474, 20477, 20485, 20486, 20481, 20482,
20488, 20490, 20492, 20494, 20501, 20503, 20530, 20531, 20538,
20540, 20561, 20562, 20568, 20569, 20571, 20572, 20743, 20744,
20751, 20752, 20749, 20750, 22261, 22263, 22267, 22269, 22510,
22513, 22524 and 22527 of 2023**



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W.P.No.21842 of 2023:

M/s S G Enterprises
Represented by its Proprietor
Mr.Shankar Ganesh

... Petitioner

-Vs-

1.The Secretary to Govt. of Tamil Nadu
Municipal Administration Department
Fort St.George
Chennai – 600 009.

2.The Secretary to Govt. of Tamil Nadu
Law Department
Fort St.George
Chennai – 600 009.

3.The Deputy Commissioner (R&F)
Greater Chennai Corporation
Ripon Buildings
Chennai – 600 003.

... Respondents

Prayer in W.P.21842 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of proceedings dated 14.06.2023 bearing reference No.R.D.C.No.G4/002883/2023 issued by the 3rd respondent and quash the same and direct the 3rd respondent to take into account of the old rules and deduct Covid-19 lockdown period while calculating the damages as per order dated 28.04.2023 in W.P.No.25220 of 2018 & batch.



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Writ Petition Nos.	Counsel for petitioner (s)	Counsel for respondent(s)
W.P.Nos.21166, 21168 and 21162 of 2023	Mr.Naveen Kumar Murthy for Mr.M.Maha Mani	Mr.J.Ravindran, AAG assisted by Mr.A.Selvendran, Spl.GP and Mr.E.Vijay Anand, AGP for RR1 & 2 Mrs.K.Aswini Devi, SC for R3
W.P.Nos.20003, 20008, 20090, 21842, 21846, 21847, 21850, 21098, 20088, 22804, 22809, 21138, 21144, 21088, 21093, 21090, 21095, 21344, 21347, 21348, 20250, 20253, 20254, 20270, 20280, 21079, 21086, 21084, 20265, 20269, 20276, 21087, 21089, 21106, 20427, 20429, 20431, 20780, 20776, 20306, 20310, 20950, 20954, 20957 and 20960 of 2023	Mr.A.K.Sriram, for A.S.Kailasam Associates and	
W.P.Nos.23011 and 23016 of 2023	Mr.S.Gopinath	
W.P.Nos.22044 and 22049 of 2023	Mr.R.Vijayakumar	
W.P.No.21103 of 2023	Mr.S.I.Sharukumar	

COMMON ORDER

(Order of the Court was made by J.NISHA BANU, J., and N.MALA, J.,)

Challenging the impugned proceedings issued by the Greater Chennai Corporation in respect of demand notice/demanding remittance of rent/damage fee for erection of hoardings, the petitioners have filed the above Writ Petitions.



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2.The facts involved in all the Writ Petitions are one and the same and relates to removal of Hoardings erected by the petitioners and hence, disposed of by this common order.

3.The Commissioner, Greater Chennai Corporation (hereinafter referred to as “GCC”) is the authority to grant permission for erection of Hoarding within the Greater Chennai Corporation limit. As per the Rules, a person who intends to erect a Hoarding must submit an application as per the forms prescribed in the Rules enclosing the required documents including No Objection Certificate from the Traffic Police and a certificate with regard to structural strength of such Hoardings.

4.This court, on 26.07.2023, found that there is no infirmity in the impugned order passed by the 3rd respondent holding that the petitioners had not declared the date of erection of the illegal hoardings and therefore, the 3rd respondent assessed the rent for one license period i.e., for 3 years. Further, this court, as an interim measure directed the petitioners to pay the



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rent/damage fees for one license period as per the rate fixed by this court in the Order dated 28.04.2023 but in square meters, within a period of two weeks.

5. Aggrieved by the final order passed by this court dated 28.04.2023, some of the petitioners filed Special Leave to Appeal (C)Nos. 17284 of 2023 and SLP (C)Nos.17226 – 17232 of 2023 before the **Hon'ble Supreme Court and the Supreme Court, by order dated 08.08.2023** fixed the license fee for erecting the hoardings at Rs.3,000/- per square meter with effect from December, 2022 till date and the relevant paragraph is given below:-

“In the meanwhile, having perused the Orders dated 07.07.2023 and 28.04.2023 as also taking note of the grievance of the petitioners herein with regard to the computation of the three year term for the purpose of payment of license fee, for the present, we direct that the respondents herein, shall permit the petitioners to continue with advertising through the hoarding authorised subject to the petitioners paying the license fee at Rs.3,000/- per square meter with effect from December, 2022 till date and continue to pay the same until further consideration is made



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by the authorities/High Court.

The period of three years to be computed, in any event, is to be determined ultimately by the authorities/High Court.

This order shall enure to the benefit of the petitioner subject to the payment being made within two weeks from this day.”

6.Subsequently, when SLP(C) .Nos.17204 of 2023 etc batch was taken up on 14.08.2023, the Hon'ble Supreme Court, held as follows:-

“Though the petitioners are assailing the orders impugned herein, the detailed consideration of the same need not be made herein, since this Court in analogous petitions in SLP (C) No. 17204 of 2023 had taken note of the contentions and had permitted the petitioners-therein who are similarly placed as that of the petitioners-herein to pay the amount due and payable from December, 2022 onwards and seek consideration of their right to continue and determination of actual arrears. In that light, the petitioners are permitted to continue to hold on to the advertisement hoardings.



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*In that view of the matter, the petitioners-
herein are also permitted to pay the license fee from
December 2022 onwards within a period of two weeks.
In addition, they shall furnish all the documents to the
Competent Authority to determine the period from which
each of the petitioners have been existing and carrying
on their advertisement hoardings. Such documents be
filed within two weeks. The Competent Authority shall
consider the same and determine the date of erection of
the hoardings and pass the appropriate orders thereto.
Such exercise shall be completed by the Competent
Authority within four weeks from the expiry of the two
weeks provided to the petitioners to furnish the
documents, after providing opportunity of hearing to the
petitioners, by the Competent Authority.*

*Needless to mention that any recovery of the
license fee earlier to December, 2022 will depend on the
consideration made by the Competent Authority and the
consideration of the correctness of the said order if the
petitioners are aggrieved and if they avail their
appropriate remedies in accordance with law. In that
regard, the contentions are left open.*



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It is, therefore, made clear that if the amount calculated from December, 2022, is paid by the petitioners within two weeks from this day, the existing hoardings shall continue until the decision is taken by the Competent Authority or by the forum concerned.

Keeping in view this order, we feel that the writ petitions which are pending before the High Court would not arise for further consideration since the parties, if aggrieved, can avail their remedies against the fresh cause of action based on the determination to be made by the Competent Authority.

In terms of the above, these petitions stand disposed of.”

7. In the light of above settled position on the subject matter, it is represented by the learned counsel appearing for the petitioners that in all the above Writ Petitions, the petitioners have paid the rent / damage fees, based upon the directions of the Hon'ble Supreme Court.



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8.Recording the same, the above Writ Petitions are closed. No

costs. Consequently connected miscellaneous petitions are closed.

(J.N.B., J.)

(N.M., J.)

11.09.2023

JerNvsri

Index : Yes/No

Speaking order/Non-speaking order

To

1.The Secretary to Govt. of Tamil Nadu
Municipal Administration Department
Fort St.George
Chennai – 600 009.

2.The Secretary to Govt. of Tamil Nadu
Law Department
Fort St.George
Chennai – 600 009.

3.The Deputy Commissioner (R&F)
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J.NISHA BANU, J.,
and
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