



W.P.No.23619 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.23619 of 2017
and WMP.Nos.24808 & 24809 of 2018

1. Syed Hussain
2. K.John Prabhu
3. A.Gulabi
4. A.P.Selvaraj
5. N.Vedhachalam
6. S.Padmanabhan
7. N.Kannan
8. S.Dawood Basha
9. E.Manivannan

... Petitioners

Versus

1. The Government of Tamilnadu,
Rep by its Secretary,
Municipal Administration and Water Supply Department,
Fort St. George, Chennai-09.
2. The Director of Municipal Administration,
Municipal Administration Department,
Ezhilagam, Chepauk, Chennai-05.



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3. The Regional Director of
Municipal Administration,
Sarathi Nagar, Kagitha Pattarai, Vellore-12.

4. The District Collector
Vellore District, Vellore.

5. The Commissioner,
Ranipet Municipality,
Vellore District, Vellore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarito call for the records pertaining to the impugned notices vide Na.Ka. No.3807/ 2016/ A3 dated 03.03.2017 and 29.05.2017 of the 5th respondent and quash the same.

For Petitioner : Mr. W.M.Abdul Majeed

For Respondents : Mr.V,Nanmaran, AGP RR1 to 4
Mr.D.Sevam R5

ORDER

This writ petition has been filed challenging the impugned notice vide Na.Ka.No.3807/2016/A3, dated 03.03.2017 and 29.05.2017 of the 5th respondent.

2. It is the case of the petitioners that the petitioners are the lessees of the shops situated at old slaughters house, IUPD (RR Road) Vandimettu Street,



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Weekly Stordi in Ward N.B, Ranipet belonging to the 5th respondent Municipality. The petitioners have promptly paying the rent to the respondent and there is no arrears of rent and the petitioners are regularly paying the tax to the government. The periodical enhancement of rent was fixed by the 5th respondent had enhanced 15% rent from the prevailing rent to the shops for the period from 2015 to 2018 by adopting renewal procedure. However, the 5th respondent, before expiry of the period from 2015-2018, had increased the monthly rent of their shops to 100% to 1000% and issued a impugned notices vide proceedings dated 03.03.2017 and 29.05.2017 without following the guidelines as per G.O.Ms.No.92, Municipal Administration Department, dated 03.07.2007.

3. The learned Counsel for the petitioners submitted that the petitioners are lessees of the shops constructed by the respondent-Municipality and as per G.O.Ms.No.92, Municipal Administration Department, dated 03.07.2007, they are entitled for renewal of lease initially for a period of nine years and on payment of 15% of enhanced fee, once in three years and thereafter, the Municipality has to re-fix the licence fee based on the market value and shall make an offer to the tenants to pay the new rent. In the event, the



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lessees refused to pay the revised rent, then the shops could be brought for public auction.

4. When the matter is taken up for hearing, learned Additional Government Pleader appearing for the respondents submitted that the issue raised in this writ petition is already covered by the order passed by this Court in W.P.Nos.13022/2018 etc., Batch, vide order dated 04.07.2018, in and by which this Court had dismissed all the writ petitions therein and, therefore, similar orders may be passed in the present petition as well.

5. The relevant portion of the order in W.P.Nos.13022/2018 etc., Batch, vide order dated 04.07.2018 are as follows:

"14. In (2016)3 MLJ 698 in the case of P.P.M.S.C.L.W.Assn. vs. Commissioner, after considering a number of decisions of this court as well as the Supreme court, in para 26, held as follows:-

"26. There is no two option of a vital fact that the 2nd respondent/Municipality is the competent/appropriate authority to determine what rent a particular shop of the Panchayat may fetch and it is well settled principle in Law



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that a lease cannot be extended much to the detriment of panchayat and in any event, the panchayat cannot be a loser on any score."

15. The Division Bench, in the unreported judgment in W.A.No.616 of 2018, dated 23.04.2018, while considering the similar argument that the revision of license fee has been enhanced arbitrarily and without affording an opportunity to the licensees, repelled the contention.

16. Keeping in view, the principles laid down in the above referred decisions, I do not find force in the submission of the learned Senior Counsel for the petitioners. The revision of licence fee is worked out based on the market value of the property by the competent committee and it was only an offer and hence the grievance of the petitioners, it is an arbitrary exercise of power of the respondents cannot be countenanced.

17. In that view, it is up to the petitioners to accept the offer given by the respondents, within a period of two weeks and shall pay arrears, if any, within a period of two months. In case the petitioners do not give consent for the payment of the enhanced amount within two weeks, the respondents are directed to take action for public auction forthwith. This



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Court holds that once the auction notification is published, the petitioners are deemed to have vacated the tenement and the respondents can enter the place with the help of police force, if required.

18. For the foregoing reasons, I find no merit in these writ petition. Accordingly, the same is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed."

6. The present petition being on the identical issue, the order passed in the aforesaid case is squarely attracted to the present petition as well. For the reasons aforesaid, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

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Index : Yes/No

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N. SATHISH KUMAR, J.

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