



W.P. No. 35277 of 2023 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. Nos. 35277, 35278, 35281, 35283, 35308, 35313, 35316 to 35318,
35335, 35338, 35340, 35342, 35344, 36114, 36119, 36122, 36125, 36126,
36132, 36135, 36139, 36141, 36142, 36143, 36145, 36146,
36149 and 36152 of 2023**

and

**W.M.P. Nos. 35242, 35244, 35246, 35249, 35274, 35280, 35284, 35287,
35289, 35309, 35310, 35315, 35317, 35319, 36069, 36077, 38080, 36084,
36085, 36087, 36089, 36091, 36096, 36097, 36098, 36099, 36101,
36105 and 36108 of 2023**

K.Dhanalakshmi	... Petitioner in W.P. No. 35277 of 2023
S.E.Syed Akbar	... Petitioner in W.P. No. 35278 of 2023
Balasubramaniam	... Petitioner in W.P. No. 35281 of 2023
R.Padmini	... Petitioner in W.P. No. 35283 of 2023
R.Padmini	... Petitioner in W.P. No. 35308 of 2023
D.Chitra	... Petitioner in W.P. No. 35313 of 2023
K.Thangavelu	... Petitioner in W.P. No. 35316 of 2023
M.Subramaniam	... Petitioner in W.P. No. 35317 of 2023
B.Sumathi Prabhavathi	... Petitioner in W.P. No. 35318 of 2023
A.Mayilathal	... Petitioner in W.P. No. 35335 of 2023
A.Syed Barkath	... Petitioner in W.P. No. 35338 of 2023



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K.V.Abdul Azeez

... Petitioner in W.P. No. 35340 of 2023

P.Ramachandran

... Petitioner in W.P. No. 35342 of 2023

R.Balakrishnan

... Petitioner in W.P. No. 35344 of 2023

S.C.Ravindran

... Petitioner in W.P. No. 36114 of 2023

B.Annapoorani

... Petitioner in W.P. No. 36119 of 2023

B.Justin Babiyan

... Petitioner in W.P. No. 36122 of 2023

A.K.Kumaravel

... Petitioner in W.P. No. 36125 of 2023

A.Srinivasan

... Petitioner in W.P. No. 36126 of 2023

P.Vasanth

... Petitioner in W.P. No. 36132 of 2023

R.Padmini

... Petitioner in W.P. No. 36135 of 2023

M.Thangavel

... Petitioner in W.P. No. 36139 of 2023

A.Srinivasan

... Petitioner in W.P. No. 36141 of 2023

K.Sathishkumar

... Petitioner in W.P. No. 36142 of 2023

T.Senthilkumar

... Petitioner in W.P. No. 36143 of 2023

S.Muthukumar

... Petitioner in W.P. No. 36145 of 2023

C.Dharmalingam

... Petitioner in W.P. No. 36146 of 2023

B.Sumathi Prabahavathi

... Petitioner in W.P. No. 36149 of 2023

C.Saroja

... Petitioner in W.P. No. 36152 of 2023



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-VS-

The Commissioner,
Tiruppur City Municipal Corporation,
Tiruppur – 641 604.

... Respondent

Common Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Respondent in Notices in Ref. No. Nil dated 13.09.2023, 21.09.2023 and 10.10.2023 and Ref. Na. Ka. No. 4554/ A1/Mai.A/2022 dated 04.08.2023, 13.09.2023 and 21.09.2023, and quash the same and consequently direct the Respondent to renew the lease for the 3rd block period from 01.07.2022 to 30.07.2025 with 15% increase in the rent paid during the 2nd block period as per clause 4(ii) of G.O. Ms. 92 dated 03.07.2007 as well as the consent order of this Court in W.P. No. 13569 of 2017 dated 18.02.2020.

For Petitioner : Mr. K.Venkatapathy
(in all W.P.s)

For Respondent : Mr. S.Silambanan,
(in all W.P.s) Additional Advocate General
assisted by Mr. Abishek Murthy,
Standing Counsel

ORDER

Heard Mr. K.Venkatapathy, Learned Counsel for the Petitioners and Mr. S.Silambanan, Learned Additional Advocate General assisted by Mr. Abishek Murthy, Learned Standing Counsel, who takes notice for the Respondent, and perused the materials placed on record, apart from the pleadings of the parties.



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2. The Petitioners, who are tenants in respect of various shops belonging to Tiruppur City Municipal Corporation, have challenged the final notices dated 04.08.2023, 13.09.2023, 21.09.2023 and 10.10.2023 demanding arrears of rent for which working-sheets showing calculation have been annexed.

3. It is represented that the Petitioners have paid the entire amount due in furtherance to the order dated 18.02.2020 in W.P. No. 13569 of 2017 passed by the Court, and nothing remains to be paid, but the Respondent had issued the impugned notice calling upon the Petitioners to vacate the premises for non-payment of the dues.

4. The Respondent resists such contention of the Petitioners by pointing out that the impugned orders are in the nature of notices demanding payment of amounts due for which the Petitioners would have to submit their explanation, if they do not admit the amounts claimed.

5. The consistent legal position has been reiterated by the Hon'ble Supreme Court of India in *Union of India -vs- Kunisetty Satyanarayana* [(2006) 12 SCC 28] that a charge memo or show cause notice cannot be challenged before



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the completion of enquiry and the proceedings cannot be interdicted till it reaches its logical conclusion. It would be useful here to extract the relevant

passages from the said decision which read as follows:-

*“13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide **Executive Engineer, Bihar State Housing Board -vs- Ramdesh Kumar Singh** [JT 1995 (8) SC 331], **Special Director -vs- Mohd. Ghulam Ghouse** (AIR 2004 SC 1467), **Ulagappa -vs- Divisional Commissioner, Mysore** [2001(10) SCC 639], **State of U.P. -vs- Brahm Datt Sharma** (AIR 1987 SC 943) etc.*

14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is



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well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.”

Having due regard to the aforesaid legal position, as there is nothing which precludes the Petitioners from raising the contentions in this Writ Petition in the reply to be submitted to the Respondent, who is bound to deal with the same before coming to any ultimate conclusion, there is no necessity for the Court to interfere at this pre-mature stage of the matter.



6. In such circumstances, this Court without expressing any view on the merits of the controversy involved in the matter, passes the following order:-

- (i) it shall be incumbent upon the Petitioners to submit their explanation to the notices dated 04.08.2023, 13.09.2023, 21.09.2023 and 10.10.2023, which are impugned in these Writ Petition, if not done already, to the concerned authority within a period of 10 days from the date of receipt of copy of this order;
- (ii) in the event of not being satisfied with the explanation submitted by the Petitioner, an enquiry shall be conducted following the prescribed procedure after affording full opportunity of personal hearing to the Petitioners to explain their position in that regard and a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment;
- (iii) if any adverse decision is taken, the Petitioners may pursue legal remedies in accordance with law; and
- (iv) it is made clear that if any such explanation is submitted by the Petitioners within the stipulated time limit, no consequential action for eviction of the Petitioners from the premises in their occupation shall be taken till the aforesaid exercise is completed.



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WEB COPY In the result, these Writ Petitions are disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

22.12.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 19.02.2024.

vjt

To

The Commissioner,
Tiruppur City Municipal Corporation,
Tiruppur – 641 604.

Copy to

1. K.Dhanalakshmi,
W/o. Somasundaram,
Shop No. 10,
Bharathiyar Shopping Complex,
Tiruppur.
2. S.E.Syed Akbar,
S/o. Syed Ibrahim,
Shop No. 2, Travelers Bungalow,
Tiruppur.



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3. Balasubramaniam,
S/o. Srinivasan,
Shop No. 4,
Bharathiyar Shopping Complex,
Tiruppur.

4. R.Padmini,
W/o. Raghukumar,
Shop Nos. 19,
Mattu Kottagai Complex,
Tiruppur.

5. R.Padmini,
W/o. Raghukumar,
Shop No. 17,
Mattu Kottagai Complex,
Tiruppur.

6. D.Chitra,
W/o. Durairaj,
Shop No. 9,
Bharathiyar Shopping Complex,
Tiruppur.

7. K.Thangavelu,
S/o. Krishnasamy Gounder,
Shop No. 20,
Kumaran Complex,
Tiruppur.

8. M.Subramaniam,
S/o. Muthusamy Gounder,
Shop No. 12,
Bharathiyar Shopping Complex,
Tiruppur.



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9. B.Sumathi Prabhavathi,

W/o. Balan,

Shop No. 13,

New Bus Stand,

Tiruppur.

10. A.Mayilathal,

W/o. Ammasai,

Shop No. 29,

Jaivabai School Road Complex,

Tiruppur.

11. A.Syed Barkath,

S/o. K.Anwar Batcha,

Shop No. 1,

Bharathiyar Shopping Complex,

Tiruppur.

12. K.V.Abdul Azeez,

S/o. Abdul Rahman Kutty,

Shop No. 15,

New Bus Stand,

Tiruppur.

13. P.Ramachandran,

S/o. R.Palaniappan,

Shop No. 11,

Jaivabai School Road Complex,

Tiruppur.

14. R.Balakrishnan,

S/o. Ramasamy,

Shop No. 9,

Kumaran Complex,

Tiruppur.



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15. S.C.Ravindran,
S/o. Chinnasamy,
Shop No. 3,
A.V.P. Anupparpalayam,
Tiruppur.

16. B.Annapoorani,
W/o. Balasubramani,
Shop No. 17,
Bharathiyar Shopping Compex,
Tiruppur.

17. B.Justin Babiyan,
S/o. Bilavendiran,
Shop No. 4,
AVP Road Bharathiyar Shopping Complex,
Tiruppur.

18. A.K.Kumaravel,
S/o. Kandasamy,
Shop No. 7,
Bharathiyar Shopping Complex,
Tiruppur.

19. A.Srinivasan,
S/o. Angappan,
Shop No. 18,
AVP Road Bharathiyar Shopping Complex,
Tiruppur.

20. P.Vasanth,
W/o. S.Palanisamy,
Shop No. 20,
Jaivabai School Road Complex,
Tiruppur.



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21. R.Padmini,
W/o. Raghukumar,
Shop No. 18,
Mattu Kottagai Complex,
Tiruppur.
22. M.Thangavel,
S/o. Mayilsamy,
Shop No. 13,
Bharathiyar Shopping Complex,
Tiruppur.
23. A.Srinivasan,
S/o. Angappan,
Shop No. 16,
AVP Road Bharathiyar Shopping Complex,
Tiruppur.
24. K.Sathishkumar,
S/o. Kalimuthu,
Shop No. 8,
Bharathiyar Shopping Complex,
Tiruppur.
25. T.Senthilkumar,
S/o. Thangavel,
Shop No. 5,
Bharathiyar Shopping Complex,
Tiruppur.
26. S.Muthukumar,
S/o. A.Srinivasan,
Shop No. 17,
AVP Road Bharathiyar Shopping Complex,
Tiruppur.



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27. C.Dharmalingam,
S/o. Chinnappa Chettiar,
Shop No. 6,
Bharathiyar Shopping Complex,
Tiruppur.

28. B.Sumathi Prabahavathi,
W/o. Balan,
Shop No. 1,
New Bus Stand,
Tiruppur.

29. C.Saroja,
W/o. Chandrasekar,
Shop No. 3,
Bharathiyar Shopping Complex,
Tiruppur.



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P.D. AUDIKESAVALU, J.

vjt

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