



W.P.(MD)Nos.10120 to 10123 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.(MD)Nos.10120 to 10123 of 2023

and

**W.M.P.(MD)Nos.8936, 8940, 8945, 8985, 8988, 8994, 9002,
9003, 9004, 9007, 9008 and 9010 of 2023**

W.P.(MD)No.10120 of 2023

Vijay Kannan

... Petitioner

Vs.

1.The Commissioner,
Madurai City Municipal Corporation,
Aringar Anna Malligai,
Madurai.

2.The Assistant Commissioner,
Madurai City Municipal Corporation,
Aringar Anna Malligai,
Madurai.

3.The Special Revenue Inspector,
Madurai City Municipal Corporation,
Aringar Anna Malligai,
Madurai.

4.The Revenue Assistant,
Madurai City Municipal Corporation,
Aringar Anna Malligai,
Madurai.

... Respondents



W.P(MD)Nos.10120 to 10123 of 2023

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the entire records in connection with the impugned demand order passed by the respondents 2 to 4 vide proceedings in Assessment No.115/6670114 dated 27.02.2023, quash the same.

For Petitioner : Mr.Niranjan S.Kumar

For Respondents : Mr.K.K.Kannan

W.P.(MD)No.10121 of 2023

Saravanakumar Kannan

... Petitioner

Vs.

1.The Commissioner,
Madurai City Municipal Corporation,
Aringar Anna Malligai,
Madurai.

2.The Assistant Commissioner,
Madurai City Municipal Corporation,
Aringar Anna Malligai,
Madurai.

3.The Special Revenue Inspector,
Madurai City Municipal Corporation,
Aringar Anna Malligai,
Madurai.

4.The Revenue Assistant,
Madurai City Municipal Corporation,
Aringar Anna Malligai,
Madurai.

... Respondents



W.P(MD)Nos.10120 to 10123 of 2023

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the entire records in connection with the impugned demand order passed by the respondents 2 to 4 vide proceedings in Assessment No.115/6670115 dated 27.02.2023, quash the same.

For Petitioner : Mr.Niranjan S.Kumar

For Respondents : Mr.K.K.Kannan

W.P.(MD)No.10122 of 2023

Chandrasekar Madasamy

... Petitioner

Vs.

1.The Commissioner,
Madurai City Municipal Corporation,
Aringar Anna Malligai,
Madurai.

2.The Assistant Commissioner,
Madurai City Municipal Corporation,
Aringar Anna Malligai,
Madurai.

3.The Special Revenue Inspector,
Madurai City Municipal Corporation,
Aringar Anna Malligai,
Madurai.

4.The Revenue Assistant,
Madurai City Municipal Corporation,
Aringar Anna Malligai,
Madurai.

... Respondents



W.P(MD)Nos.10120 to 10123 of 2023

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the entire records in connection with the impugned demand order passed by the respondents 2 to 4 vide proceedings in Assessment No.115/6670064 dated 27.02.2023, quash the same.

For Petitioner : Mr.Niranjan S.Kumar

For Respondents : Mr.K.K.Kannan

W.P.(MD)No.10123 of 2023

Elangovan Karuppaiah

... Petitioner

Vs.

- 1.The Commissioner,
Madurai City Municipal Corporation,
Aringar Anna Malligai,
Madurai.
- 2.The Assistant Commissioner,
Madurai City Municipal Corporation,
Aringar Anna Malligai,
Madurai.
- 3.The Special Revenue Inspector,
Madurai City Municipal Corporation,
Aringar Anna Malligai,
Madurai.
- 4.The Revenue Assistant,
Madurai City Municipal Corporation,
Aringar Anna Malligai,
Madurai.

... Respondents



W.P(MD)Nos.10120 to 10123 of 2023

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the entire records in connection with the impugned demand order passed by the respondents 2 to 4 vide proceedings in Assessment No.115/6670131 dated 27.02.2023, quash the same.

For Petitioner : Mr.Niranjan S.Kumar

For Respondents : Mr.K.K.Kannan

COMMON ORDER

Common arguments were advanced in all the writ petitions. The stand taken by the petitioners in all the writ petitions were the same and the respondents in their reply also averred the same points. In view of the particular fact, common order is passed in all the writ petitions.

2. One Arumugam, who had filed a writ petition in W.P(MD).No.5059 of 2023, is incidentally also the President of an association of all the other shop owners and has been the signatory to all the representations given on behalf of the petitioners. In the affidavits filed, it had been stated that the petitioners herein have shops at Madurai Corporation Lorry Shed at West Veli Street. The shops measured 64 Sq.ft, 100 Sq.ft and 120 Sq.ft. It has been stated that the



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shop owners put up the sheds themselves and developed them. They were tenants under the respondents namely Madurai Municipal Corporation. These two facts are neither denied nor disputed. The only issue which has to be examined is the issue of the rent which is payable by each shop owner. The impugned notices have been issued complaining that there has been substantial arrears of rent payable by each one of the shop owners and therefore by the impugned orders, the respondents have called upon the petitioners to pay the arrears within a period of three days failing which they stated that possession would be taken and that the shops would be let out on auction.

3. The respondents have invited this issue by themselves as the only appropriate manner by which, as the controlling authority over the shops, they should have determined the lease period for a fixed period with no option for renewal and on failure to pay the rents / expiry of lease period, bring to auction the shops. It is common knowledge that tenants cannot remain continuously by taking on rent shops, in public places under the Corporation since if they fall in arrears of payment of rent, they would neither be paying rent to the Corporation nor would they be permitting other prospective lessees or auction purchasers to do business. They would only be occupying the shops at relatively low rent. If there is accumulated arrears, this causes loss to the Corporation. As a matter of



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act, there is loss of livelihood to hundreds and hundreds of others who would expect that an opportunity should be given to them also to be lessees of the shop.

4. Viewed from that particular angle, I hold the petitioners herein will necessarily have to abide by the rent as determined by the respondents herein. It has been stated that they had been in possession for a considerable number of years. They should have permitted the respondents to bring the shop on auction. There is no right vested on the petitioners herein to continue to be in occupation for ever and ever without even paying the rent as demanded and questioning every increase in the rent. One example of such questioning of rent, is a letter addressed by the said Arumugam, who had filed a writ petition in W.P(MD).No.5059 of 2023 and who, after the Corporation had passed a resolution determining the rent at various rates of Rs.30/- per sq. ft., Rs.40/- per sq. ft. and Rs.50/- per sq. ft. for shops measuring, 64 sq.ft, 100 sq.ft and 120 sq.ft, which resolution had been finally signed by the Commissioner of the Madurai Municipal Corporation, placed a representation stating that a Deputy Commissioner, without giving the name and a few other officials, had independently agreed that the rent of the shops could be reduced to Rs.21/- per sq.ft. The representation is bundled with falsity and I would straight away



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reject the same. I would place the fate of these petitioners solely in the hands of the said Arumugam who appears to act as a *de jure* / *defacto* leader though without any authority whatsoever. If the other shop owners are to suffer consequences of rent not paid, they should blame this particular individual and not the respondents herein.

5. Insofar as the present shop owners are concerned, they now pay rent at the rate of Rs.449/- per month for shops measuring 64 sq.ft, Rs.581/- per month for shops measuring 100 sq.ft and Rs.774/- per month for shops measuring 120 sq.ft. This was from the year 2016-2017. There was an increase from the year 2000-2001.

6. Thereafter, the respondents applied G.O.Ms.No.92 dated 03.07.2007 which is a governing Government order and which had directed that rent should be based on the market value of the land. Accordingly, the respondents had proposed to increase of the rent to Rs.80/- per sq.ft., It was complained that the petitioners herein had been in arrears even prior to the year 2017. It was stated in the representation of the petitioners herein that in the hope that the rent would be determined at Rs.21/- per sq.ft, they had purchased demand draft for about 1 ½ crores towards arrears of rent. But at the same time, the resolution of



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the respondents would necessarily have to be upheld. If the Government Order is to be taken into consideration, then the rent per sq.ft should be Rs.80/-.

There has been a resolution dated 25.01.2022 and the Commissioner had directed that three slabs of rate of rent could be determined namely at Rs.30/- per sq.ft., for the shops measuring 64 sq.ft, Rs.40/- per sq.ft for shops measuring 100 sq.ft and Rs.50/- per sq.ft for shops measuring 120 sq.ft. It is stated that even if it is calculated as that particular rate, there would be only a marginal increase in the monthly rent to Rs.1920/-, Rs.4,000/- and Rs.6,000/- respectively per month for the aforementioned three areas of the shop. The respondents would still suffer substantial loss. It is under these circumstances, that arguments have been advanced and the writ petitioners question the impugned orders stating that they had been given just three day's time to vacate and hand over the shops.

7. On the other hand, it is the contention of the learned Standing counsel of the respondents that the petitioners are entrenched tradesmen whose turn over is substantial and the shops are quite close to the Railway Junction at Madurai and the Periyar Bus stand and that the market value of land at that particular place is substantially high and the respondents have given considerable concession by determining the rent as Rs.80 per sq.ft.



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8. Be that as it may, the respondents had reconsidered the entire issue and had taken a considered view to have the rent fixed at the aforementioned rates of Rs.30 per sq.ft, Rs.40 per sq.ft and Rs.50 per sq.ft., for the three areas under the occupation of the petitioners herein. The demand of the petitioners that there had been an agreement that the rent would be still further reduced to Rs. 21 per sq.ft., is rejected by me. The document produced by the petitioners is a self serving document. This assertion has not been agreed by the Commissioner. The names of the officials, who had so agreed, have also not been disclosed in the said representation given by the said Arumugam. If he had taken demand drafts on the basis that the rent would be fixed at Rs.21/- per sq.ft., it only shows the malafide nature of the petitioners herein who demand a particular rent to be fixed and state that only then they would pay the arrears. Whatever the rental rate is fixed, the arrears should be paid. It is not for them to put in a demand about the condition for payment of arrears and that the rent should be determined at Rs.21/- and that only then they would pay the arrears, I wonder what they would do if the rent is determined at the rates as fixed by the Government under G.O.Ms.No.92. They should be quite aware of the concession granted by the Commissioner, Corporation who directed so in the proceedings dated 25.01.2022 and had granted substantial concession. Even



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the highest rate fixed at Rs.50 per sq.ft is still Rs.30/- short of Rs.80/-, which would be the just market value for the shops herein. A tabulated column had been presented by respondents giving the rental amount at Rs.80 per sq.ft and at Rs.30/-, Rs.40/- and Rs.50/- per sq.ft., for the three areas respectively, and at Rs.21/- per sq.ft. I would straight away reject the calculation of the rent at Rs.21/- per sq.ft, more particularly, because it had been projected only by the said Mr.Arumugam, who has no right to state that fact and who, in my definite opinion, is only attempting to mislead the petitioners. Left to themselves, the petitioners would have individually approached the respondents.

9. I am extremely confident that most of the petitioners would agree to the higher rent and would release themselves free from the clutches of the said Arumugam. He has no authority to control the petitioners. The writ petitions have been filed in individual names and each writ petitioner is having control of the shop under his occupation. There is no authority on behalf of any of the Joint Commissioner or Deputy Commissioners to accept to any reduced rent at Rs.21/- per sq.ft. Even if it is projected so, the said rent of Rs.21/- per sq.ft is rejected by this Court. The rent which has to be determined is only as per the resolution of the respondents. The resolution has stated that rent would be Rs.30/- per sq.ft for shops measuring 64 sq.ft, Rs.40/- per sq.ft for shops



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measuring 100 sq.ft and Rs.50 per sq.ft for shops measuring 120 sq.ft.

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10. A direction is given to each one of the petitioners to pay the arrears of rent in accordance with the area of the shop under his/her occupation. There cannot be consolidation of the amounts and payment of arrears in one lumpsum. If any one of the shopkeepers is not prepared to accept this stipulation, then they may vacate and permit auction of that shop in accordance with rules and regulations. A direction is given accordingly and a time limit of two weeks time is given from the date of receipt of a demand notice from the respondents to pay the difference in rent between the rent which is now paid and as fixed at Rs.30/- per sq.ft for shops of 64 sq.ft and Rs.40/- per sq.ft for shops of 100 sq.ft, Rs.50/- per sq.ft for shops of 120 sq.ft. The arrears are to be worked out in accordance with the guidelines and presented to each one of the petitioners by the respondents within a period of 10 working days and thereafter within a period of two weeks from that particular date, the arrears should be paid, failing which, the respondents are at liberty to bring the particular shops to auction in accordance with rules and regulations. No further orders are required.



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11. These writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

27.04.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No

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C.V.KARTHIKEYAN, J.

ssb

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