



WP(MD)Nos.10600 to 10612 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)Nos.10600 to 10612 of 2019
and W.M.P(MD).Nos.8129 to 8141 of 2019

Prayer in W.P(MD).No.10600 of 2019

Francis

.. Petitioner

vs.

1.The Commissioner,
Madurai Corporation,
Anna Maligai,
Madurai.

2.The Assistant Corporation,
Madurai Corporation,
Anna Maligai,
Madurai.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus, forbearing the respondents from collecting enhanced rent from the petitioner in respect of the shop No.295 in Central Vegetable Market, Mattuthavani, Madurai and consequently, direct the respondent No.1 to adjust the excessive rents paid by the petitioner from 01.08.2016 to till date with future transactions.



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For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.F.Deepak

COMMON ORDER

The petitioners are the vegetable vendors and have been allotted with shops in Central Vegetable Market, Mattuthavani, Madurai, in the year 2010. Earlier, they were allotted shops in old Central Market near Meenakshi Amman Temple. During the time of allotment, the rent was fixed as Rs.2,000/- (Rupees Two Thousand only) per month. The petitioners are stated to have paid a sum of Rs.60,000/- (Rupees Sixty Thousand only) as advance amount. The rent was revised in the year 2013 with 15% hike as Rs.2,300/- (Rupees Two Thousand Three Hundred only). In the year 2017, the rent has been again hiked to Rs.4,283/- (Rupees Four Thousand Two Hundred and Eighty Three only) and the petitioners were directed to pay the revised rent retrospectively from 01.08.2016. Aggrieved over the same, these Writ Petitions have been filed for a Mandamus forbearing the respondents from collecting the enhanced rent from the petitioners in respect of the shops allotted to them in Central Vegetable market,



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Mattuthavani, Madurai and to adjust the excessive rents paid by the petitioners from 01.08.2016 till date towards future transaction.

2. The learned counsel appearing for the petitioners submits that the petitioners have been allotted shops in the year 2010 for the monthly rent of Rs.2,000/- and have also paid the advance amount of Rs.60,000/- (Rupees Sixty Thousand only). At the time of allotment, they have been informed that the monthly rent would be enhanced once in three years by 15% hike from the original rent. After three years, the rent was revised on 01.04.2013 at Rs.2,300/- by 15% hike. While so, the first respondent has issued an order on 18.09.2017, revising the rent at Rs.4,283/- (Rupees Four Thousand Two Hundred and Eighty Three only) with 90% hike and directed the petitioners to pay the revised rent retrospectively from 01.08.2016.

3. The learned counsel appearing for the petitioners has also pointed out that the other vegetable vendors similar to these writ petitioners have filed writ petitions in W.P(MD).Nos.18207 to 18216, 18219 and 18220 of 2017 etc., before this Court and this Court, vide order dated 22.09.2017, disposed of those writ petitions with a direction to the respondents to provide calculation sheet to the



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shop occupants and consider their objections and re-fix the lease rent in accordance with law. The petitioners are also similarly situated persons and without providing any opportunity, the rent has been revised with 90% hike. This act of the first respondent is arbitrary and against the guidelines stipulated in G.O.(Ms).No.92, Municipal Administration and Water Supply Department, dated 03.07.2007.

4. The learned Standing Counsel appearing for the respondents Corporation by relying on the counter affidavit filed by the respondents submits that the petitioners were allotted with shops in the New Vegetable Market at Mattuthavani, without conducting auction, since they were in occupation of the shops in the old vegetable market. Initially, the rent was fixed as Rs.2,000/- (Rupees Two Thousand only) per month and the Corporation being the owner of the shop is entitled to revise the rent. There is no condition in the order of allotment that the rent would be revised with 15% hike from the original rent. The Government, vide G.O.(Ms).No.92, Municipal Administration and Water Supply Department, dated 03.07.2007, permitted the Local Body to revise the lease and licence charges periodically. Therefore, the rent was revised on 01.04.2013 and thereafter, it has been revised in the year 2016, subject to the market value of the property. The



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learned counsel has also pointed out that the right of the Corporation in revising the rent has already been decided by this Court in W.P(MD).Nos.2837 to 2846 of 2018 dated 21.02.2018.

5. This Court considered the rival submissions made and perused the materials available on record.

6. The petitioners have been allotted with shops in Madurai Central Vegetable Market at Mattuthavani in the year 2018, without conducting auction and the rent was fixed earlier as Rs.2,000/- (Rupees Two Thousand only). There is no condition in the order of allotment that the rent would be revised once in three years by 15% hike from the original rent. In the absence of any such condition in the order of allotment, the petitioners cannot claim that the rent has to be revised once in three years by 15% hike from the original rent. Admittedly, the first respondent has passed the order on 18.09.2017, directing the petitioners to pay the enhanced rent of Rs.4,283/- (Rupees Four Thousand Two Hundred and Eighty Three only) retrospectively from 01.08.2016, however, the petitioners have not chosen to challenge the said order, instead, they have filed these Writ Petitions seeking a direction to forbear the respondents from collecting the enhanced rent



from them in respect of the shops allotted to them. However, in the writ appeals filed by some of the shop owners in W.A.(MD).Nos.725, 726 and 730 of 2018 challenging the revision of rent fixed by the Corporation retrospectively, the Hon'ble Division Bench of this Court has passed the following judgment:

“ 6. There are two issues before us. One is with respect to enhancement made retrospectively. Second is with respect to the power of enhancement. There is no quibble over the fact that the respondent does have power but it cannot be done with retrospective effect. Therefore, any enhancement can also be made from 01.09.2017 onwards.

7. In such view of the matter, the writ appeals stand allowed in part by setting aside the orders of the learned Single Judge and the impugned order with respect to retrospective enhancement is concerned. Accordingly, we make it clear that the appellant is bound to pay the enhanced rent from 01.09.2017 onwards. The fact that the appellant has complied with the interim order is also taken note of the respondent to place the property for auction, because what is given is only the licence of the shop. No costs. Consequently, connected miscellaneous petitions are closed.”

7. In view of the judgment passed by the Hon'ble Division Bench of this Court and considering the fact that the petitioners were directed to pay the



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enhanced rent by the first respondent retrospectively from the year 2016, this Court directs the first respondent to recover the enhanced rent from the petitioners by providing some installments to them, so that, the petitioners will pay the enhanced rent.

8. Accordingly, these Writ Petitions are disposed of. There shall be no order as to costs. Connected miscellaneous petitions are closed.

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

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To

1.The Commissioner,
Madurai Corporation,
Anna Maligai,
Madurai.

2.The Assistant Corporation,
Madurai Corporation,
Anna Maligai,
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B.PUGALENDHI, J.

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