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W.P.No.1283 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.1283 of 2020

and

W.M.P.Nos. 1653 & 1654 of 2020

A.B.Ubaidullah,

.... Petitioner

Vs

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George, Chennai – 600009.

2.The Director of Municipal Administration,
Municipal Administration Department,
Ezhilagam,
Chepauk, Chennai – 600 005.

3.The Commissioner,
Arani Municipality,
Thiruvannamalai District,
Thiruvannamalai.

.... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the Impugned Notice bearing Na.Ka. 1408/2016/A3 dated 03.03.2017 and subsequent Notices dated 26.04.2017 and 12.12.2017 in respect of the



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petitioner Shop Nos. 87 and 88, in New Market Shops, at Arani, on the file of the 3rd respondent and quash the same.

For Petitioner : Ms.D.Kamachi
For R1 & R2 : Dr.T.Seenivasan
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned Notice in Na.Ka.1408/2016/A3, dated 03.03.2017 and subsequent Notices dated 26.04.2017 and 12.12.2017 in respect of the petitioner's Shop Nos. 87 and 88, in New Market Shops, Arani, on the file of the 3rd respondent.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. Similar writ petitions were filed and the same were dismissed. Aggrieved by the same, the writ petitioners preferred writ appeals in W.A.Nos.1806 of 2017 etc batch. The Hon'ble Division Bench of this Court, by an order dated 25.07.2018, passed the following order :

“9. In the light of the above consensus reached between the parties, these writ appeals will stand allowed, the orders of the learned Single Judge as well as the impugned notice of



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enhancement of rent will stand set aside. There will be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

10. We find that the Committee constituted by the Commissioner of the 5th respondent Municipality is unwieldy inasmuch as it contains 11 members and the enhancement of rent also is nearly 10 times has existing rent. The learned counsel appearing for the municipality would upon instructions submit that the Municipality is prepared to reconstitute the Committee and refix the rent payable by the occupants after giving notice to the occupants. Upon the determination of rent by the Committee after notice to the appellants, who are in occupation of shops belonging to the Municipality, the appellants shall decide as to whether they would continue to occupy by paying the higher rent or to vacate and handover the possession of land.

11. The Committee to be formed by the Commissioner, Arani Municipality, is directed to determine the rent arrears as on 01.07.2016. The process of re-fixation shall be completed at the earliest at any rate within a period of 6 months from the date of receipt of a copy of this order, after giving an opportunity of hearing to the present occupants/appellants before us. Such re-fixation shall take effect from 01.07.2016.

12. It is brought to our notice that the appellants have been paying 50% of the enhanced amount as per the interim orders passed during the pendency of the writ petitions. They



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shall continue to pay the same till such time, the Committee takes a final decision as per our direction supra. If rent fixed by the Committee is lower than the rent that is already paid by the respective allottees the differential amount will be adjusted towards the future payment in the event of the appellants opting to pay the higher rent and continue the possession. If the rent fixed is more than the amount paid the appellants shall pay the balance amount along with arrears in order to enable them to continue in possession.

13. In view of the above, the 5th respondent, the Commissioner of Arani Municipality, is directed to form a smaller Committee with lesser number of members in compliance with the directions of the Government contained in the circular dated 30.11.2016. The said Committee shall take up the fixation of the rent for the premises in the occupation of the appellants. The Committee shall also hear the appellants on the question of enhancement and thereafter fixed the rent payable for each shop or the commercial premises in occupation of the appellants. Such fixation of rent shall be made with effect from 01.07.2016. Upon such re-fixation, the appellants may choose either to continue in occupation by paying the rent as fixed by the Committee or to vacant and handover the possession of the property to the local body.”



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4. Therefore, the above benefit is also extended to the petitioner as well. Accordingly, the third respondent is directed to form a small Committee with lesser number of members, in compliance with the directions of the Government contained in the Circular dated 30.11.2016. The said Committee shall take up the fixation of the rent for the premises in the occupation of the petitioner. The Committee shall also hear the petitioner on the question of enhancement and thereafter, fix the rent payable for the shop of the petitioner. Such fixation of rent shall be made with effect from 03.03.2017. Upon such fixation of rent, the petitioner may choose either to continue paying rent or to vacate and handover the possession of the shop to the third respondent. The above said process shall complete within a period of six weeks from the date of receipt of a copy of this order.

5. With the above direction, this Writ Petition stands disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

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Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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To
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G.K.ILANTHIRAIYAN. J.

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