



WP(MD)Nos.24384 to 24392 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 26.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)Nos.24384 to 24392 of 2018
and
WMP(MD)Nos.22072 to 22080 of 2018

WP(MD)No.24384 of 2018:-

M.Vijayakumar

.. Petitioner

v.

The Commissioner,
Karaikudi Municipality,
Karaikudi,
Sivagangai District.

.. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records relating to the proceedings pursuant to the Notice dated 05.10.2018 in Na.Ka.No. 5236/2016/A1 of the respondent in respect of the petitioner's shop at Shop No.2, Burma Refugee, Kallukatti North, Karaikudi, Sivagangai District and quash the same.



WP(MD)Nos.24384 to 24392 of 2018

For Petitioner : Mr.C.Mahadevan

For Respondent : Mr.D.Venkatesh

[In all WPs]

COMMON ORDER

The notices issued by the respondent Municipality refixing the rent for the shops occupied by the petitioners are challenged in these writ petitions.

2.The petitioners claim that they have obtained the shops in a public auction conducted by the respondent Municipality in the year 2009. The rent was fixed as per G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007. As per this Government Order, the lease rent has to be revised with an increase of 15% once in three years and after nine years, the lease rent shall be refixed.

3.Learned Counsel for the petitioner submitted that while refixing the lease amount, the respondent Municipality has fixed four / five times more



than the rate fixed by the Public Works Department for the subject buildings, which is highly arbitrary and unjust. Therefore, they have filed these writ petitions that as per G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007, the rent has to be refixed only as per the market value of the property.

4.Learned Counsel for the respondent Municipality submitted that on the expiry of nine years lease period, the rent has been refixed as per the directions of the Regional Director of Municipalities, Madurai. A Committee was constituted in this regard constituting the following members:-

- 1) The Commissioner, Karaikudi Municipality;
- 2) The Commissioner, Kodaikanal Municipality;
- 3) The Commissioner, Palani Municipality;
- 4) The Commissioner, Cumbum Municipality;
- 5) The Commissioner, Bodinayakanoor Municipality;
- 6) The Commissioner, Thirumangalam Municipality;
- 7) The Commissioner, Oddanchathiram Municipality;



- 8) The Commissioner, Rameshwaram Municipality;
- 9) The Commissioner, Theni Municipality;
- 10) The Municipal Engineer, Palani Municipality;
- 11) The Municipal Engineer, Karaikudi Municipality;
- 12) The Town Planning Officer, Karaikudi Municipality;
- 13) The Town Planning Officer, Paramakudi Municipality;
- 14) The Manager, Cumbum Municipality and Revenue Inspector, Karaikudi Municipality.

5. On the recommendations of this Committee, the rent has been refixed. Learned Counsel for the respondent has also relied upon a decision of a Division Bench of this Court in *Punjai Puliyampatti Municipality Shopping Complex Lessee Welfare Association v. Commissioner of Municipalities* [2016 (2) CWC 45], wherein, it has been held as follows:-

“29. ... the individual shopkeepers of the Appellant/Association do not have either a legal or vested right to continue in occupation of the shops belonging to the 2nd Respondent/Municipality. The paramount interest of the 2nd Respondent/Municipality cannot be put to peril by permitting the shopkeepers of the Appellant/Association to continue in



possession of the premises in the subject matter in issue at a increased rate of 15%. No wonder, the rule of Law requires competitive bidding which paves way for obtaining a paper price in relation to a public property which is in the nature of a trust. Therefore, the public property is to be put into auction by inviting tender so as to enable the Municipality to obtain the highest offer in a fair and transparent manner. Only then, the public welfare of a particular Town Panchayat can augment its revenue to the optimum level, as opined by this Court."

6.This Court considered the rival submissions made on either side and perused the available materials.

7.The petitioners have challenged the notices refixing the rent. The petitioners claim that they have been allotted with the subject shops as per G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007. Admittedly, they have been inducted in the year 2009 and the period of nine years, as contemplated in this Government Order, is already over. The object of any Municipality is to augment revenue through its properties. The petitioners, who obtained the shops in a public auction,



cannot be allowed to continue to hold the property for years together, without conducting a public auction. It appears that by filing these writ petitions, the public auction for the subject shops have been halted for several years.

8. That apart, the licensing / leasing of any immovable property is governed under Rule 316 of the Tamil Nadu Local Bodies Rules, 2023 and as per this provision, there cannot be any lease after a period of three years.

For better appreciation, the same is extracted as under:-

“316. Licencing or leasing of Immovable Properties.–

(1) The Municipal Council may grant licence or lease to any person for use and occupation of any land or building belonging to the municipality for a period of three years.

(2) After the completion of the period prescribed in sub-rule (1), no extension or renewal of the same lease shall be permitted and any applications for the same shall be considered afresh in accordance with provisions of the Act and Rules.”



WP(MD)Nos.24384 to 24392 of 2018

9. In view of the above discussions, this Court is not inclined to entertain these writ petitions. Accordingly, these writ petitions are dismissed. The respondent / Municipality is directed to go for a public auction for the subject shops within a period of two weeks from the date of receipt of a copy of this order. The petitioners are at liberty to participate in the public auction to be conducted by the respondent, if so advised and if they are not having any arrears in payment of rent.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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

26.03.2024

To

The Commissioner,
Karaikudi Municipality,
Karaikudi,
Sivagangai District.



WEB COPY



WP(MD)Nos.24384 to 24392 of 2018

B.PUGALENDHI, J.

gk

WP(MD)Nos.24384 to 24392 of 2018

26.03.2024