



**W.P.(MD).Nos.14398 to 14406 of 2019**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 01.08.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

**W.P.(MD).Nos.14398 to 14406 of 2019**

**and**

**W.M.P(MD)Nos.10839 to 10847 of 2019**

**W.P(MD)No.14398 of 2019:**

R.Shanmugavel

... Petitioner

**Vs.**

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

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

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents from collecting enhanced rent from petitioner in respect of shop No.409 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 : No Appearance

For Respondents : Mr.K.K.Kannan  
Standing Counsel

### **COMMON ORDER**

By this common order, all the writ petitions are being disposed of.

2. There is no representation on behalf of the petitioners.

3. In these writ petitions, the respective petitioners have prayed for identical relief for forbearing the respondents from collecting enhanced rent from the petitioners and to direct the 1<sup>st</sup> respondent to adjust the excessive rents paid by the petitioner from 01.08.2016 to till date with future transactions.

4. The petitioners are having shops located near Meenakshi Ammal Temple in Madurai which was later shifted to Maatuthavani, Madurai. The rents were enhanced pursuant to G.O.Ms.No.92 of Municipal Administration and Watter Supply Department dated 03.07.2007. Independently, the above notification was the subject matter of the challenge before this Court in W.P(MD)Nos.2837 to 2846 of 2018. By an order dated 21.02.2018, these writ petitions are dismissed with the following observations:



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*“7. A Division Bench of this Court in P.Muthusamy Vs. State of Tamil Nadu reported in (2014) 5 MLJ 129 has held as follows:-*

*“20.The facts narrated above would clearly indicate that the petitioners have been given only a licence to run the shops. Just because the word “lease” has been mentioned, a licence cannot ipso facto be converted into a lease. Admittedly, the licence issued has a fixed terms. Therefore, the petitioners do not have a legal or a vested right to continue in occupation forever. There is no doubt that the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1961, does not apply to the case on hand. The petitioners can very well participate in the proposed auction. In other words, they cannot claim the right of a statutory tenant.*

*21.The object of letting out the shops is to collect more revenue for the respondent municipality, which is meant to be used for welfare measures. The Government Orders, as narrated above, are very specific about the purpose of auction followed by lease/licence. Since the transactions are commercials in nature, the petitioners, being licensees, cannot insist that the rent, which as they think, just and proper alone is liable to be paid.....”.*

*8. In such circumstances, the petitioners now cannot question the licence fees revised by the respondent Corporation. If the petitioners are willing to accept the offer made by the respondent Corporation, they can submit their consent before the respondent Corporation, and get the licence renewed, if they are not willing to accept the offer, the petitioner should necessarily vacate shops enabling the corporation to bring the shops for public auction.*

*9. In the above circumstances, if the petitioners are willing to pay the revised the licence fees, the petitioners are at liberty to approach the respondent / Corporation, within the period of four*



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*weeks from the date of receipt of a copy of this order and in the event of the petitioners are giving their consent, the respondent Corporation is directed to consider the same, and pass suitable orders for renewing the licence, otherwise, it is open to the respondent to evict the petitioners, and bring the shops for public auction.*

*10. Accordingly, with the above observation, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.”*

5. A further appeal against the said decision before the Hon’ble Division Bench of this Court in W.A(MD)Nos.725, 726 and 730 of 2018 were also dismissed with the following observations:

*“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 is 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*



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*note of. This judgment is passed at without prejudice to the right 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.”*

6. Thus, the relief sought for by the petitioner is contrary to G.O.Ms.No. 92 of Municipal Administration and Watter Supply Department dated 03.07.2007.

7. Hence, these Writ Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

**01.08.2024**

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

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

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



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**C.SARAVANAN, J.**

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