

W.A.(MD)Nos.2030 of 2024 and batch

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

<i>Order Reserved On</i>	<i>Order Pronounced On</i>
28.04.2025	30.04.2025

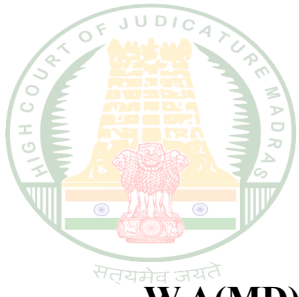
CORAM:

THE HONOURABLE MRS.JUSTICE J. NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.A(MD)Nos. 2030, 1993 to 2029, 2031, 2035 to 2043,
2648, 2649 and 2652 of 2024

and

C.M.P.(MD).Nos.14573, 14586, 16622, 17038, 14650, 14601,
14673, 14656, 16616, 17072, 17054, 14634, 17067, 14581, 14635,
14624, 14580, 14632, 16601, 16613, 14636, 17113, 14663, 14610,
14680, 14599, 14676, 16624, 14655, 14622, 14548, 14621, 14604,
14629, 14653, 14659, 17074, 14585, 17160, 14630, 18549, 16615,
16605, 14582, 14596, 14670, 14648, 16604, 16987, 14626, 14633,
16619, 17145, 14654, 14660, 16623, 14679, 14671, 17056, 14575,
14682, 16625, 17065, 17042, 14651, 14578, 14638, 17063, 14619,
17057, 17033, 17019, 18470, 14641, 14643, 16595, 14608, 14607,
18468, 14546, 17061, 14647, 14614, 14588, 16599, 14627, 16617,
16618, 14631, 14551, 14595, 14646, 17029, 14642, 17039, 14640,
14565, 14628, 14644, 16608, 14625, 14674, 14678, 14605, 14662,
14545, 14612, 14613, 17041, 14681, 17045, 14637, 17130, 16609,
14645, 17036, 18460, 14683, 17044, 14649, 14677, 14623, 14652,
16606, 17046, 14584, 14620, 14616, 17071, 18465, 14572, 14666,
14550, 14568, 18463, 14658, 14618, 14576, 14667, 16598, 16611,
14536, 14543, 14537, 14531, 14533, 14538 and 14535 of 2024



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W.A(MD)No.2030 of 2024

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1. A.Rabindran Kamak
2. M/s. Sri Mari Traders,
Rep.By its Proprietor J.Kathiresan.
3. M/s. Mariammal Agency,
Rep.By its Proprier R.Ravi.
4. M/s. Namasivayam
5. M/s.Mahesh Enterprises,
Rep.By its Proprier Maheswaran.
6. M/s. Ramesh Enterprises,
Rep.By its Managing Partner G. Damodaran.
7. M/s. Vijay PVC Pipes,
Rep.By its Managing Partner S.Saravanan
8. Baskar
9. M/s. J.V.Furniture,
Rep.By its Proprietor K.A Chandran.
10. M/s. Vinoth Trading Company,
Rep.By its Partner Namasivayam.
11. M/s. Vinoth Agency,
Rep.By its Proprietor Vinoth Kumar.
12. M/s. Vinoth Agency,
Rep.By its Proprietor Vinoth Kumar.
13. M/s. S.Saravanan
14. N.Balasubramanian



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15. Vasudevan

16. Saravanan

17. Chandra Prakasa Nadar

18. M/s. Sangeetha Electricals,
Rep.By its Proprietor Shankarlal.

19. Sudar Novelties,
Rep by its Proprietor Narpath Singh.

20. G.Sivakumar

21. M/s. Cauvery Traders,
Rep by its Proprietor George Roy.

22. Umapathy

23. M/s. Dharmu Traders,
Rep by its Proprietor Subramani.

24. M/s. Guruji Book Stores,
Rep by its Manager Subramani

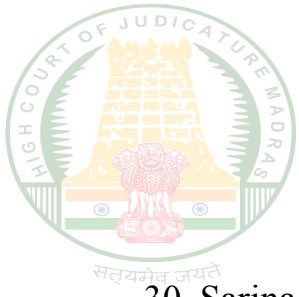
25. M/s. Sheik Abul Salam and Sons,
Rep by its Partner Sulthan Mohideen.

26. Ayesha Bee

27. Chelladhurai

28. M/s. Keerthiga Agency,
Rep by its Proprietor Krisnamoorthy.

29. M/s. Ayisha Agency,
Rep by its Proprietor Abdul Saleem.



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30. Sarina Yousuf

31. N.V.Vaidhyanathan

32. M/s. Silpa Agency 2

Rep by its Managing Partner Rengaraj.

33. M/s. Nappa Corporation,

Rep by its Proprietor L.N.Letchumanan,

34. M/s. Nappa Corporation,

Rep by its Proprietor L.N.Letchumanan.

35. Shakir,

Rep by its Partner N.Mohamed Rafik.

36. M/s. Vijay Association ,

Rep by its Managing Partner S.Saravanan.

37. M.Kannan

38. Ramesh

39. M/s. Selvam Marakadai,

Rep by its Proprietor A. Joseph Sundarsamy.

40. Ganesan

41. T.V.Madhavan

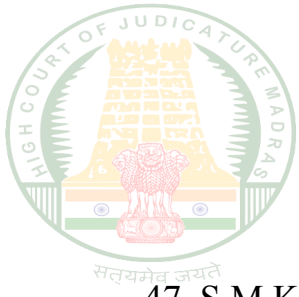
42. M.K.N. Meera Moideen

43. A.S.Asaraj Ali

44. S.M.Khader

45. M/s. S.M.Syed Seit

46. S.M. Musthafa



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47. S.M.Kamal

48. M/s. Meena Agency,
Rep by its Partner K.Sudhakar.

49. Thiru.Peer Diwan Mohideen

50. Thiru Peer Diwan Mohideen

51. Thiru.N.Balasubramanian

52. Sankar Oil Mill,
Rep by its Proprietor Selvaraj.

53. Siva Sankar Mara Viyabaram

54. Amutha

55. Thiru Kader Mohideen

56. Silpa Agency,
Rep by its Managing Partner Rengaraj.

57. M/s.Bismi Timber Company,
Rep by its Propretor Azharudheen.

58. Thiru.R.Azharudheen

59. M/s. Sri Balaji,
Rep by its Proprietor G.Lalitha

60. Thiru Latchumanan Chettiar

61. Tiruchirappalli City Land
Lease Merchants Welfare Association,
Rep by its Secretary,
Mr. A. Rabindran Kamak.

...Appellants



W.A.(MD)Nos.2030 of 2024 and batch

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Vs.

1. State of Tamil Nadu
Represented by its Secretary to Government
Chepauk, Chennai – 600 009
 2. The Secretary,
Municipal Administration and Water Supply Department,
Secretariat, Fort St. George, Chennai 600 009.
 3. The Director,
Municipal Administration,
Ezhilagam, Chepauk,
Chennai 600 005.
 4. The Commissioner,
Tiruchirapalli Corporation,
Tiruchirapalli 620 001.
 5. M/s. Ganambal Marketing Pvt. Ltd.
 6. Thiru. V.Subramani
 7. M/s. Asian
 8. Thiru. R.Moorthu and R. Umapathy
 9. Thiru. R.Moorthu and R. Umapathy
 10. Thiru.Rathina Pillai
 11. Thiru. Khutbudeen
 12. Thiru. T.S.Mohamed Roawther
 13. Thiru. Seik Dawood
 14. Thiru. Meera Mohideen
 15. Thiru. Kader Mohideen
 16. Thiru. Balasubramanian
- ...Respondents



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PRAYER IN WA(MD). 2030 of 2024: Writ Appeal filed under Clause 15 of Letters Patent, against the order dated 30.09.2024 in WP(MD). No.9259 of 2021.

In all the Writ appeals:

For Petitioner : Mr.V.R.Shanmuganathan

For Respondents : M/s.D.Farjana Ghoushia,
Special Government Pleader, for R-1 to 3

Mr.R.Baskaran, Senior Counsel
for M/s. R.B. Law Associates,
for R-4 to 6.

COMMON JUDGMENT

Since the issue involved in these appeals are one and the same all the writ appeals are taken together and Common Judgment is passed.

2. The W.A.(MD)No.2030 of 2024 is filed by A.Rabindran Kamak and others, writ petitioners against the order, dated 30.09.2024 passed in W.P. (MD)No.9259 of 2021 and the writ petition was filed for Writ of Certiorarified Mandamus to quash the proceedings dated 24.04.2021 passed by the 4th respondent and consequently direct the respondents to continue collecting rent from the petitioners at the prevailing rate.

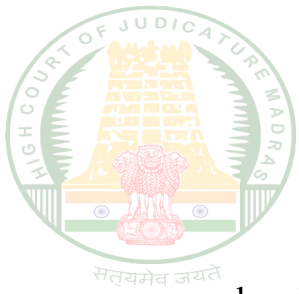


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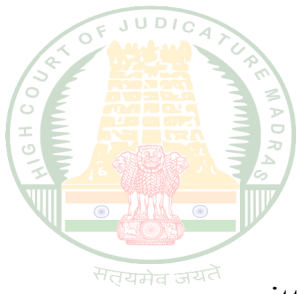
3. After hearing the rival submissions, the Writ Court directed the petitioners to pay the balance arrears for a period from 01.04.2001 and 31.03.2021 and further directed to pay rent at the rate of Rs.29.50 per square feet (50% of the rent claimed in the impugned proceedings) for the period from 01.04.2001 to till date and the same shall be paid within one month from the receipt of a copy of the order. Further held upon finalization of the rent in the public auction proceedings, the petitioners are obligated to pay the difference if the rent exceeds Rs.29.50 per square feet and in case of their failure to do so, the 4th respondent is at liberty to initiate appropriate proceedings to recover the same. Subject to these conditions, the eviction notice dated 08.10.2021 was quashed. Aggrieved over the same the present writ appeal is filed.

4. The brief facts as stated in W.P.(MD)No.9259 of 2021 are that the petitioners 1 to 78 are lessees in the lands situated at West Boulevard Road which was leased out during pre-independence era before 1947 and they are paying lease rents without any default for more than 75 years. Originally the lands were allotted to the appellants' forefathers for the purpose of manufacturing of defence logistics. At the time of allotment, the lands were trenched and the same were



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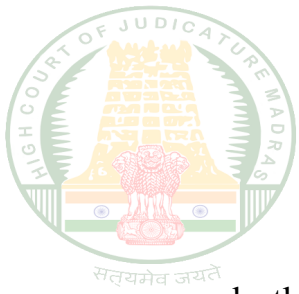
were levelled and developed by the appellants' forefathers who subsequently constructed superstructures and carried on business. After independence, now the lands are coming within the local limits of the 4th respondent, the Tiruchirapalli Corporation. The appellants and their ancestors had been in possession of the land for over a century, having constructed superstructures in the form of shops. These shops were assessed for property tax, which was duly collected by the local authorities without objection. Until 2001, there was no dispute, and the local body was charging a sum of 0.30 paise per square feet from approximately 60 shopkeepers. In the year 2001, the Municipal Council passed a resolution enhancing the rent by 25%. However, the same was cancelled by the Government vide G.O. Ms. No. 209, dated 17.06.2002, on the grounds that the enhancement should be in accordance with the norms prescribed in G.O. Ms. No. 147, dated 30.12.2000. Based on this, the Municipal Council again passed a resolution on 30.06.2003, followed by proceedings dated 22.12.2014 fixing the rent at Rs. 6 per square feet with effect from 2001. Alleging that the rent, along with arrears, had not been paid, the Municipality cancelled the licenses and directed the shopkeepers to vacate the premises by proceedings dated 07.01.2015. These proceedings were challenged in W.P.(MD) Nos. 4913 of 2015 and 21324 of 2015. The writ petitions were disposed of by an order dated 27.04.2016, and the matter



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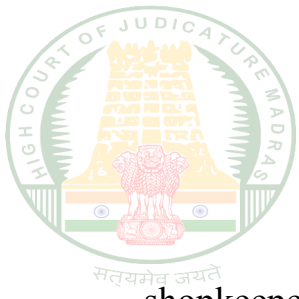
was remitted to the Municipal Corporation. Pursuant to the remand, the Municipal Corporation, by proceedings dated 28.07.2016, directed the shopkeepers to pay rent at the rate of Rs.6 per sq. ft. with effect from 01.04.2001, with 15% enhancement every three years thereafter. This order was challenged in W.P.(MD) No. 22394 of 2016 by forming an association as “Tiruchirappali Land Lease Merchants Association” and by order dated 23.09.2020, this Court directed the shopkeepers to pay rent at the rate of Rs.3 per square feet with effect from 01.04.2001, with a periodical revision at the rate of 15% once every three years from that date onward. Accordingly, the shopkeepers were directed to pay rent at the rate of Rs. 3.45 per square feet from 01.04.2007, Rs. 4 square feet with effect from 01.04.2010, Rs. 4.60 per square feet from 01.04.2013, and Rs. 6 per square feet from 01.04.2016 until 13.03.2021. They were further directed to clear the arrears of rent on or before 01.04.2021.

5. Thereafter, the Municipal Corporation was directed to re-determine the rent with effect from 01.04.2021 by taking into account the prevailing market rate and the Corporation shall offer the revised rate to the shopkeepers, and if they accept the offer, they may continue as lessees of the Corporation. Aggrieved over the order, the Corporation went an appeal in W.A(MD)No.216 of 2021. Pending



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appeal, the association of shopkeepers have paid a sum of Rs.10.51 crores towards the arrears of rent (totally they have paid 13 crores approximately towards arrears and are continue to pay Rs.6 per sq. ft till date). The Division Bench of this Court, vide order dated 16.04.2021 dispose the writ appeal by holding that the shopkeepers had paid the arrears, the order passed by the Learned Single Judge fixing the rent up to 01.04.2021 was not disturbed. However, the directions issued by Single Judge directing to redetermine the rent and offering the same to the Association was vacated. Further in Paragraph No.8, the Bench directed the Corporation to redetermine rent in accordance with law in a fair and transparent manner and to conduct the public auction for grant of lease/license from the public. Pursuant to the orders, the Corporation directed the shopkeepers to vacate the shops vide proceedings, dated 24.04.2021. The said proceeding was challenged in W.P(MD)No.9259 of 2021, wherein an interim order, dated 12.05.2021 was granted on a condition that the appellant should filed affidavit of undertaking that they will vacate the premises without any further claim whatsoever upon the highest bid been confirmed and accepted by the respondents pursuant to the public auction. The appellants have filed such affidavit and the said writ petition is pending with an interim order. On the other hand, the Corporation has issued another proceeding dated 08.10.2021 calling upon the



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shopkeepers to pay the arrears of rent from 01.04.2001 to 30.09.2021 by calculating the rent as directed by the Single Judge till 2021 and fixing the rate of rent Rs.59/- per square feet for the period from 01.04.2021. Challenging the said proceeding dated 08.10.2021 writ petitions in W.P.(MD)No.18996 of 2021 batch was filed and the same was disposed of on 30.09.2024 with a direction that the rent up to March 2021 would be Rs.6/- per month and rent from 01.04.2021 would be Rs.29.50/- per month and the shopkeepers shall pay 50% of the arrears within a month, if they intend to participate in the auction and further directed the Corporation to go for public auctions. Aggrieved over, the present writ appeal is filed raising various grounds.

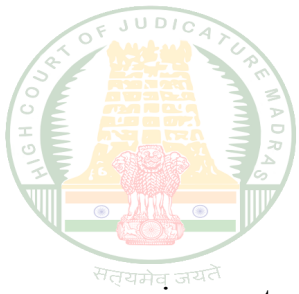
6. Both the appellants as well as the respondent have written notes of submissions. Heard Mr.V.R.Shanmuganathan, the Learned Counsel appearing for the Appellants and M/s.D.Farjana Ghousia, the Learned Special Government Pleader, appearing for the respondents 1 to 3 and Mr.R.Baskaran, the Learned Senior Counsel for M/s. R.B. Law Associates, for the respondents 4 to 6 and perused the material documents available on records.



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7. The primary contention of the appellants is that while passing the order impugned in writ petition dated 08.10.2021 the respondents did not grant any opportunity of hearing thereby there is violation of principles of natural justice, but the rival contention of the respondents is that opportunity of hearing would come only after redetermination of rent as per G.O.Ms.No.147. But on perusal of the said order, it is seen that the respondent had fixed the rent without a scope for any opportunity. Infact the appellants had rightly raised a plea that if the respondent intended to grant an opportunity, then the same would be in the form of proposal. Since there is no such proposal, this Court is of the considered opinion that there is violation of principles of natural justice.

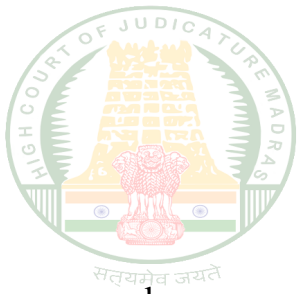
8. The next contention of the appellants is that the respondent had misconceived G.O.Ms.No.147, since the said GO directs to fix market value and the market value ought to be based on the said locality and to the adjacent shop the respondent had fixed Rs.7.82 per square feet but for the appellants shop the respondent had fixed Rs.59/ per square feet. But the respondent submitted that the in W.B. Road further north of the leased property the prevailing rate is Rs.93/- per square feet and further the appellant is referring to old Madurai Road. This Court is of the considered opinion that this contention is a factual plea. In such



circumstances the appellants ought to be granted an opportunity to prove whether the shops coming within the W.B. Road or Old Madurai Road.

9. The next contention of the appellants is that the respondents failed to take note that the land was leased 100 years before and the superstructure was put up by appellants (appellants ancestors) and the respondents have not denied this fact. Even the said fact was not considered in earlier litigation. If the superstructure belongs to the appellants, then the respondents ought to fix only for the ground alone. It is not clear whether the respondents had fixed for the ground alone or whether the respondents had taken the superstructure also. Therefore, this Court is of the considered opinion that the case ought to be remitted back to the respondents.

10. Interestingly it is seen the appellants have claimed that the said land was leased for the purpose of manufacturing defence logistics, which indicates that the space was used as manufacturing units may be like SPICOT. Infact it is pertinent to state that the SIPCOT was established in 1971 to facilitate industrial development by providing infrastructure, incentives, and services to businesses. But the above lease was granted prior to 100 years. In such circumstances, the

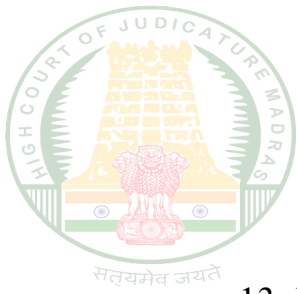


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lease cannot be termed as “normal lease let by local authority”. Further in the country with 140 crores of population with active working community of 100 crores in age group from 18 years to 64 years, the government cannot provide job for all the 100 crores people, but can facilitate doing business. In such circumstances it is not necessary that the government ought to act like landlord and treat the people as tenant in all circumstances, but can be treated as separate cluster of units like SIPCOT.

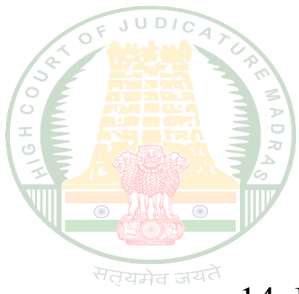
11. The next contention is that the respondents are demanding GST from 2008 onwards, but the GST came into effect from 2017 onwards. This Court is of the considered opinion that the respondents cannot collect GST from 2008 onwards, if collected it is against Article 265, since the said Article states “No tax shall be levied or collected except by authority of law”.

12. The next contention of the appellant is that the demand is barred by limitation. Since this Court had held there is violation of principles of natural justice, the said contention is left open for the appellants to raised it before the respondents.



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13. It is seen that the appellants already deposited Rs.13 crores as arrears of rent. Further it is seen that the appellants were paying rent 0.30 paise per square feet up to 2001. Then based on resolution it was increased to 25% percent, which was set aside by the government in G.O.Ms.No.209 dated 17.06.2002. Then the respondent fixed at Rs.6/- per square feet vide order dated 22.12.2014 with effect from 2001 and 15% enhancement every three years thereafter, which was challenged in W.P.(MD)No.22394 of 2016. Then the appellants were allowed to pay rent at the rate of Rs.3 per square feet with effect from 01.04.2001, with a periodical revision at the rate of 15% once every three years from that date onward. Based on this the appellants were pay rent at the rate of Rs.3.45 per square feet from 01.04.2007, Rs.4 square feet with effect from 01.04.2010, Rs. 4.60 per square feet from 01.04.2013, and Rs.6 per square feet from 01.04.2016 until 13.03.2021. Now suddenly the respondents have increased from Rs.6 per square feet to Rs.59/- per square feet, that too for ground rent alone which increase is 10 times i.e. 1000 times. This Court is of the considered opinion such a steep raise is erroneous. Having held so, the appellants ought to be directed to continue paying the rent, therefore, this Court is directing the appellants to pay the rent at Rs.10/- until the enquiry is completed.

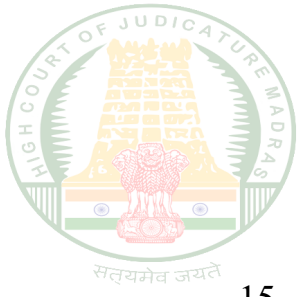


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14. For the reasons stated supra, the following orders are passed:

- i. The order passed in the writ petitions are modified.
- ii. The respondents shall grant an opportunity of personal hearing for finalising the rent.
- iii. Until the enquiry is completed the appellants are directed to pay Rs.10/- per square feet from the 14.03.2021 till 13.03.2024 and then 15 % increase for the subsequent years until the enquiry is completed.
- vi. While finalising the rent the respondents shall take into consideration that the appellants are liable to pay only ground rent alone and not for superstructure.
- v. The appellants are at liberty to raise all pleas including limitation and the respondents shall also consider all the pleas as per law.



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15. With the above said observations, these writ appeals are disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

[J.N.B., J.] [S.S.Y., J.]
30.04.2025

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

1. The Secretary to Government,
State of Tamil Nadu,
Chepauk,
Chennai – 600 009.
2. The Secretary,
Municipal Administration and Water Supply Department,
Secretariat,
Fort St. George,
Chennai 600 009.
3. The Director,
Municipal Administration,
Ezhilagam,
Chepauk,
Chennai 600 005.
4. The Commissioner,
Tiruchirapalli Corporation,
Tiruchirapalli 620 001.



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W.A.(MD)Nos.2030 of 2024 and batch

J.NISHA BANU, J.

and

S.SRIMATHY, J.

KSA

Common Judgment in
W.A(MD)Nos. 2030 of 2024 and batch

30.04.2025