



WEB COPY



W.A.(MD)No.1005 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.(MD)No.1005 of 2024

and

C.M.P.(MD)Nos.7291 and 7292 of 2024

C.S.Muralikrishnan

: Appellant

Vs.

1.The Commissioner,
HR & CE Department,
Chennai.

2.The Joint Commissioner,
HR & CE Department,
Trichy/

3.The Joint Commissioner/Executive Officer,
HR & CE Department,
Arulmigu Mariyamman Thirukovil,
Samayapuram,
Trichy.

: Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the order passed in W.P. (MD) No.11203 of 2024 dated 15.05.2024.



WEB COPY



W.A.(MD)No.1005 of 2024

For Appellant : Mr.T.Leninkumar
For R1 & R2 : Mr.P.T.Thiraviam
Government Advocate
For R3 : Mr.S.Ramesh

JUDGMENT

[Judgment of the Court was delivered by **R.SURESH KUMAR, J.**]

This writ appeal has been filed assailing the order of the writ Court dated 15.05.2024 made in the writ petition in W.P. (MD) No. 11203 of 2024.

2.The appellant/writ petitioner was a lessee under the third respondent temple for the period from 01.07.2021 to 30.06.2024 to run a vegetarian hotel/canteen. The rent has been fixed as Rs.61,401/- per month for the first year, Rs.70,612/- per month for the second year and for the third year, Rs.81,204/- per month. Insofar as the first year as well as the third year lease rent is concerned, there has been no dispute and the entire amount has been paid. With regard to the second year lease amount, it comes to Rs.7,99,350/- and that amount has not been paid. Therefore, the third respondent temple passed an order on 03.05.2024, directing the appellant/writ petitioner to vacate the shop and hand over



WEB COPY

the possession of the shop to the temple authorities. By the said order, they also blacklisted the appellant /writ petitioner from participating in any tender floated by the third respondent temple as well as any other temples under the H.R. & C.E., Department in the State. Aggrieved over the same, writ petition was filed by the appellant/writ petitioner.

3.The writ petition having been heard, was dismissed by the learned Single Judge through the order dated 15.05.2024. Assailing the said order passed by the writ Court, the learned counsel for the appellant /writ petitioner had contended that during the said period at various point of time, especially at the time of festivals, at the instructions of the Executive Officer of the third respondent temple, foods were supplied on credit basis by the appellant /writ petitioner to the officials of the temple as well as the security Officers. To that extent, according to the account, which is being maintained by the appellant/writ petitioner, there is a due of Rs.4,77,170/- payable by the temple authorities to the appellant/writ petitioner/lessee.

4.Therefore, with regard to the amount payable for the second year lease period, the appellant /writ petitioner had requested the temple authorities, that is the third respondent to adjust the said amount of



W.A.(MD)No.1005 of 2024

WEB COPY

Rs.4,77,170/- with the amount payable by the petitioner to the temple, and regarding the remaining amount, out of the total lease amount payable for the second year that is Rs.7,99,350/- is concerned, the appellant /writ petitioner was ready and willing to make payment. This in fact, has been stated by the appellant/writ petitioner by way of reply dated 11.09.2023, in response to the notice issued by the third respondent dated 04.09.2023. The reply given by the appellant /writ petitioner on 11.09.2023 is extracted hereunder for ready reference:

“வணக்கம் மேற்கண்ட என்னால் திருக்கோயிலுக்கு சொந்தமான பக்தர்கள் தங்கும் விடுதி வளாகத்தில் உள்ள சைவ உணவு விடுதி வாடகை உரிமம் பெற்று நடத்தி வருகிறேன். தற்போது 04.09.2023 அன்று வரப்பெற்ற அலுவலக கடிதத்தில் பாக்கி தொகை ரூபாய் ஏழு லட்சத்து தொன்னூற்று ஒன்பதாயிரத்து முன்னூற்று ஐம்பது 799350/- செலுத்த கடிதம் கிடைக்கப் பெற்றேன். ஊடன் கடை பேசியர் அவர்களை அனுப்பி திருக்கோயில் மேலாளர் அவர்களை நேரில் சந்தித்து தகவல் கூறிவிட்டு வரும்படி அனுப்பினேன். அதன் படி 2022 பூச்சோரிதல் விழாவிற்கு பாதுகாப்பு காவல்துறை மற்றும் தீயணைப்பு துறை மேலும் அவ்வபோது அலுவலக கடிதத்தின் படி உணவு வழங்கிய விதத்தில் எனக்கு மில் தொகை பாக்கியாக 477170/- தொகை நான்கு லட்சத்து எழுபத்து ஏழாயிரத்து நூற்று எழுபது ரூபாய் நிலுவையில் உள்ளது அதனை எனது வாடகை பாக்கியில் வரவு செய்யும்படி கேட்டுக் கொள்கிறேன். மேலும் உள்ள பாக்கியினை உடனே செலுத்தி விடுகிறேன்.



W.A.(MD)No.1005 of 2024

தயவு செய்து எனது கடிதத்தினை பரிசீலிக்கும் படி கனிவோடு கேட்டுக்
கொள்கிறேன்.”

WEB COPY

5.However, these aspects have not been considered by the third respondent and he passed the order on 03.05.2024 directing the appellant /writ petitioner to vacate the shop and hand over the possession and also blacklisted the appellant /writ petitioner from participating in the tenders to be floated by the third respondent temple as well as other temples under the H.R. & C.E., Department. When this was questioned in a writ petition, the learned Single Judge, also having taken a view that the rental arrears admittedly, since has not been paid by the appellant /writ petitioner, he is not entitled to seek for any remedy. Therefore, on that score, the writ Court has come to the conclusion that the writ petition is liable to be dismissed. Accordingly, the learned Single Judge through the impugned order dated 15.05.2024 has dismissed the writ petition.

6.Insofar as the due payable by the temple authorities to the appellant /writ petitioner to the tune of Rs.4,77,170/- is concerned, the learned counsel for the third respondent temple would submit that it is a disputed amount. But at the same time, the learned counsel has not



denied the fact that on various occasions, food has been supplied by the appellant /writ petitioner on credit basis to the temple authorities and their officials. The said supply of food is based on the letter issued by the temple authorities. Therefore, it is admitted that the food has been supplied by the appellant /writ petitioner at various point of time and during the festival season, the food supply had been in large quantity.

7. When that being so, the total bills having been calculated, the due has been arrived at by the appellant /writ petitioner to an extent of Rs.4,77,170/-. However, if at all there has been a dispute with regard to the said calculation and the total due claimed by the appellant /writ petitioner, an opportunity should have been given by the temple authorities and after inviting the appellant /writ petitioner to substantiate his contention along with the documents, which are available with him i.e., bills, vouchers, letters etc., a decision should have been arrived at by the temple authorities as to how much is the actual due payable to the appellant / writ petitioner and after calculating the same, the remaining amount should have been recovered from the appellant /writ petitioner from and out of the rental due payable by the petitioner for the second year lease period. Such an exercise has not been undertaken by the temple authorities. Instead, they simply directed the appellant /writ



petitioner to vacate the shop and hand over the vacant possession and also blacklisted the petitioner from participating in the tender to be floated by the third respondent temple and other temples under the H.R.& C.E., Department.

8.In the order impugned before the writ Court, there has been no whisper about all these issues especially, the claim that has been made by the appellant/writ petitioner to adjust or set off the due payable to him to the tune of Rs.4,77,170/-. Therefore, the order impugned before the writ Court is under total non-application of mind and without even considering the reply given by the appellant/ petitioner and also in violation of principles of natural justice.

9.It has been brought to the notice of this Court that, since there has been no bidders pursuant to the first notification, they issued the second tender notification, for which the date has been fixed on 27.06.2024. After that only, the temple authorities will know, who will be the successful bidder and in whose favour, the lease period will get extended.



WEB COPY

10.Be that as it may, insofar as the present appellant/writ petitioner is concerned, the only issue is the actual due payable by him, after adjusting the due payable by the temple authorities to the appellant/writ petitioner and also without having a plausible reason, since the appellant /writ petitioner has been blacklisted and even though in this context, the tender condition Nos.7 and 9 has been quoted by the learned counsel for the temple authorities, such a situation has not arisen in the present case yet, the reason being that the dispute with regard to the payment and counter payment between the parties ie., the third respondent and the appellant/ writ petitioner is yet to be decided. Therefore, in all fairness, the third respondent should have given an opportunity to the appellant /writ petitioner and after verifying the bills available with him, the due payable by the temple authorities to the appellant/writ petitioner should have been arrived at, thereby the remaining amount should have been demanded from the appellant /writ petitioner, for which the appellant / writ petitioner is also ready and willing to make payment immediately, as stated by the learned counsel for the appellant/writ petitioner.

11.In such view of the matter, this Court is inclined to dispose the appeal in the following lines:



WEB COPY

W.A.(MD)No.1005 of 2024



(a) Insofar as the blacklisting of the appellant /writ petitioner by the order impugned before the writ Court dated 03.05.2024 is concerned, that order since would not stand in the legal scrutiny for the afore stated reasons and the learned Single Judge since has not considered those aspects, the impugned order is liable to be set aside and accordingly, it is set aside.

(b) However, insofar as the impugned order before the writ Court dated 03.05.2024 is concerned, except the portion of blacklisting the appellant/writ petitioner, the order shall stand and therefore, that is to be sustained and insofar blacklisting area is concerned, the order cannot be sustained. Therefore, to that extend the order impugned before the writ Court is set aside. As a sequel, there shall be a direction to the third respondent to issue notice to the appellant /writ petitioner calling upon him to produce the available receipts, vouchers, bills etc., to substantiate his contentions with regard to the due of Rs.4,77,170/- payable by the temple authorities to the appellant /writ petitioner and thereafter, after giving an opportunity of being heard to the appellant/writ petitioner, an order can be passed by the temple authorities. When such conclusion is arrived at with regard to the quantum of amount to be paid by the temple



W.A.(MD)No.1005 of 2024

authorities to the appellant /writ petitioner, the said amount can be adjusted towards the second year rental amount and the remaining amount shall be paid by the petitioner within a period of 30 days thereafter.

(c)Insofar as the remaining undisputed amount of Rs.3,22,180/- (Rs.7,99,350/- - Rs.4,77,170/-), is concerned, the said amount shall immediately be paid by the appellant /writ petitioner within a period of two weeks from the date of receipt of a copy of this order.

12.With these direction, this writ appeal stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[R.S.K.,J.] & [G.A.M.,J.]

14.06.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

ta



W.A.(MD)No.1005 of 2024

WEB COPY

- To
- 1.The Commissioner,
HR & CE Department,
Chennai.
 - 2.The Joint Commissioner,
HR & CE Department,
Trichy/
 - 3.The Joint Commissioner/Executive Officer,
HR & CE Department,
Arulmigu Mariyamman Thirukovil,
Samayapuram,
Trichy.



WEB COPY



W.A.(MD)No.1005 of 2024

R.SURESH KUMAR, J.
and
G.ARUL MURUGAN, J.

ta

ORDER MADE IN
W.A.(MD)No.1005 of 2024

14.06.2024