

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.6372/2015 & MP.Nos.1&2/2015

M/s.Moorthy Arts,
rep. By its partner,
N.D.Sokratees,
95, Appu Chetty Street,
Shevapet, Salem-636 002

..... Petitioner

Versus

1.Union of India,
Rep. By its General Manager,
Southern Railway,
M.M.Complex,
Chennai-600 003

2. The Senior Divisional Commercial Manager,
Southern Railway,
Divisional Office,
Salem.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records from the file of the 2nd respondent in No.SA/C/PUB/SAMT/02-H, dated 29.12.2014 and the consequential proceedings No.SA/C/PUB/SAMT/02-H, dated 12.01.2015 on the file of the 2nd respondent and quash the same and further direct the 2nd respondent to renew the contract for the year 2015-2016 by accepting 6% increase in the existing rate of lease rent.

For Petitioner : Mr.S.Venkatesh for M\s.B.S.G.Firm

For Respondents: Mr.P.T.Ram Kumar,
Standing Counsel

ORDER

Heard Mr.S.Venkatesh, learned counsel for the petitioner and Mr.P.T.Ram Kumar, learned Standing Counsel appearing on behalf of the first and second respondents and with their consent, the writ petition is disposed of at the admission stage itself.

2.The petitioner challenges the order dated 29.02.2014 by which the respondents have demanded the lease rent in respect of the advertisement hoarding which was put up by the Contractor. Admittedly, the petitioner is only a canvasser and does not have any vested right.

3.It is pointed by the learned counsel for the respondents/Railway that some what an identical prayer was sought for by the petitioner in WP. Nos.23471 & 23432/2012. Those writ petitions were disposed by this Court on 21.11.2012, with certain directions and the petitioner undertook to pay amounts as demanded by the respondents. The said order reads thus:-

"These writ petitions are filed challenging the common circular dated 25.05.2012 and to direct the respondent to renew the lease of the petitioner for the hoarding put up at Salem Town near Periyar Flyover of 80' X 20' and 60" X 20'' single sided hoarding for 2012-2013 by fixing the increased lease amount as followed in 2011-2012.

2.The lease of the petitioners for the above, hoardings put up at Salem Town near Periyar Flyover of 80'X 20'and 60"X 20'' single sided hoarding for 2012-2013 expired on 17.07.2012 and renewal of one year would be from 18.07.2012 to 17.07.2013. During the pendency of these writ petitions, the petitioners have filed undertaking affidavits stating that the petitioners are willing to pay the amount as demanded by the respondent, i.e., a sum of Rs.3,64,476/- (Rent- Rs.3,36,000/- + Caution Deposit Rs.28,476/-) and Rs.2,68,197/- (Rent- Rs.2,52,000/-) + Caution deposit Rs.16,197/-) respectively), as per circular dated 25.05.2012 under protest with liberty to raise the issue before the arbitration in view of the arbitral clause for resolving the dispute under condition Number 23 and on payment of the said amount subject to the decision of the arbitrator and the respondent may be directed to renew the licence for the year 2012-2013.

3. In the light of the undertaking affidavits filed by the petitioners to pay the amounts under protest seeking reference under arbitration, learned senior standing counsel appearing for the respondent expressed no objection for disposing of these writ petitions after recording the said undertaking and submitted that if the said amounts are paid, the respondent will renew the licence for the year 2012-2013.

4. In view of the said submission, these writ petitions are disposed of with a direction to the petitioners to pay the above said amounts within a period of two weeks from today. No costs. Consequently, the connected miscellaneous petitions are closed."

4. In the light of the orders passed by this court wherein the petitioner had agreed to pay amount, the question of entertaining a fresh writ petition is not maintainable. Furthermore, it is submitted that the period of license is over and the hoarding has been removed.

5. In the light of the above the writ petition is dismissed leaving it open to the petitioner either to pay the amount or to resort to arbitration. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-
Deputy Registrar
Dated: 11.3.15

True Copy

Sub Assistant Registrar

To

1. The General Manager,
Union of India,
Southern Railway,
M.M. Complex,
Chennai-600 003.

2. The Senior Divisional Commercial Manager,
Southern Railway,
Divisional Office,
Salem.

+1 cc to Mr. P.T. Ramkumar, Advocate, SR.13031.

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