

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:22.12.2015

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.P.No.34228 of 2013

G.Prabhakaran

... Petitioner

Vs.

1.The Principal District Judge,
Dharmapuri District, Dharmapuri.

2.The District Munsif
cum Judicial Magistrate,
Pappireddipatti Taluk,
Dharmapuri District.

3.The Executive Engineer,
PWD (Buildings) Construction
and Maintenance Division,
District Collector Complex,
Dharmapuri - 636 705.

4.The Registrar General,
High Court of Madras.

.... Respondents

(Suo motu impleaded as per
order dated 11.08.2015 by
MMSJ in W.P. No.34228 of 2013)

Prayer:Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus, calling for the records on the file of the first respondent relating to the impugned Official Memorandum dated 09.12.2013 bearing Ref.No.Nil and quash the same and consequently direct the 1st and 2nd respondents to revive the rent and pay at Rs.21,000/- per month as per the report submitted by the third respondent from 16.02.2013 onwards along with the arrears of enhanced rent as per G.O. Ms. No.329 dated 30.08.2001 for the premises situated at Door No.1/68-A, Rangampettai, Pappidreddipatti, Dharmapuri District, occupied by the second respondent.

For Petitioner : Mr.Ilanthiraiyan for
M/s.Sai Bharath and Ilan

For Respondents: Mr.C.T.Mohan for R1, 2 and 4
Mr.R.A.S.Senthil Vel, AGP for R3

O R D E R

The newly constituted District Munsif cum Magistrate Court at Pappireddipatti, Dharmapuri District was accommodated in a private building, belonging to the petitioner. In pursuant to the order passed by the Government in G.O.Ms.No.582 dated 27.07.2009, the monthly rent was fixed at Rs.14,030/-.

2.Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the third respondent as well as the learned counsel for the respondents 1, 2 & 4.

3.The petitioner sought for enhancement of rent based upon the Government Order passed in G.O.Ms.No.329 dated 30.08.2001, which took into consideration the earlier order passed in G.O.Ms.No.875, Finance (Salaries) Department, dated 23.11.1995. Based upon the said Government Order, the petitioner made a request for enhancement from 13.06.2012 onwards. Accordingly, the third respondent has fixed the rent at Rs.21,000/- per month, though as per the Government Order, the petitioner is entitled to a sum of Rs.23,079/-. The same was informed to the second respondent by the third respondent, by letter dated 16.05.2013. It was followed by the petitioner's representation dated 04.10.2013, seeking payment of Rs.21,000/- per month as rent.

4.However, the first respondent has sent a communication to the petitioner stating that as per the procedure, the petitioner is only entitled for 15% enhancement. The petitioner once again sent a letter to the first respondent stating that since five years has already elapsed, he should be paid atleast a sum of Rs.25,000/- as rent from 17.02.2013 onwards. By the impugned order dated 09.12.2013, the request of the petitioner was rejected. Therefore, the present writ petition has been filed.

5.In this case, the respondents 1, 2 & 4 on one hand and the third respondent on the other hand, have taken different stand. When the applicability of the Government Order is not in dispute, the petitioner cannot be denied the relief sought for. The original lease was entered into, as early as on 17.02.2008. Admittedly, five years have elapsed. Hence, even otherwise, the petitioner is entitled for enhancement of rent, as per G.O.Ms.No.329 dated 30.08.2001, which has taken note of the earlier Government Order passed in G.O.Ms.No.875, Finance (Salaries) Department, dated 23.11.1995. The best person to fix, calculate and comply the relevant Government Orders is the third respondent. Even though as per the third respondent, the rent calculated is at Rs.23,079/- from 13.06.2012 onwards, the petitioner makes a claim only for a sum of Rs.21,000/- from 13.06.2012, which appears to be reasonable and fair. The impugned order has been passed wrongly without considering the Government Orders.

6. Accordingly, the Writ Petition is allowed and the impugned order of the first respondent dated 09.12.2013 is hereby set aside and consequently, the respondents are directed to make the payment to the petitioner by treating the rent payable at Rs.21,000/- with effect from 17.02.2013 and the arrears have to be paid within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that this order will not stand in the way of the petitioner, approaching the respondents for fixing the rent as per the relevant Government Order for the subsequent period. No costs.

DP

Sd/-

Asst. Registrar

/true copy/

Sub Asst. Registrar

To

1. The Principal District Judge,
Dharmapuri District, Dharmapuri.

2. The District Munsif
cum Judicial Magistrate,
Pappireddipatti Taluk,
Dharmapuri District.

3. The Executive Engineer,
PWD (Buildings) Construction
and Maintenance Division,
District Collector Complex,
Dharmapuri - 636 705.

4. The Registrar General,
High Court of Madras.

+ 1 cc to The Govt. Pleader, Sr 69673.

+ 1 cc to M/s. Sai Bharath and Ilan, Advocate Sr 69539.

SAI/CO
KR/7/1/16

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