IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.A. Nos.807 to 810 of 2007
and M.P.Nos.1 of 2007, 1 of 2009 and 1 of 2010

The Tamil Nadu Industrial Development Corporation Ltd., Rep. By its General Manager, 19-A, Marshalls Road, Egmore, Chennai 600 008. .. Appellant in all WAs. /2nd Respondent

-vs-

1.The Deputy Salt Commissioner,
Shastri Bhavan,
Chennai 600 006. .. 1st respondent in all WAs./Ist Respondent

2.L.Subramania Reddy ...R2 in W.A.807/07/Petitioner
3.Saradhammal
4.Chandravadhana
5.L.Sudhakar
6.L.Lakshmipathi
7.L.Kirubakar
(RR3 to 7 impleaded as per order dt.12.11.2009 made in MP.No.1/2009) .. RR 2 to 7 in WA.807/07

8.V.S.Venkatesan .. R-2 in WA.808/07/Petitioner
9.Babu.M .. R-2 in WA.809/07/Petitioner
10.D.Nagabooshanam
11.Ravichandra Reddy .. RR 2 and 3 in WA 810/07/Petitioner

Appeals filed under Clause 15 of the Letters Patent against the common order dated 26.04.2007 made in W.P.Nos.12721, 12722, 12723 and 12795 of 2000 on the file of this Court.

W.P.Nos.12721, 12722, 12723 and 12795 of 2000:

Writ of Mandamus directing the Second Respondent to pay Compensation to the petitioners in respect of the lands taken over by the Second respondent which had been leased out to the petitioners by the first Respondent under registered lease Deed and covered under Salt Manufacturing licence No.41,15,42 and 29 dated 8/7/88,20/4/88 and 5/6/89 respectively.

For Appellant : Mr.M.Vijayan
for M/s.King and Partridge

For Respondents : Mr.A.Murugan for R-1
: Mr.G.Jeremiah for RR 3, 4, 6 & 7

C O M M O N J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

The original petitioners / private respondents were given leasehold rights by indenture of lease executed by the President of India in 1988 for a period of 17 years and 281 days commencing from 01.01.1988 in respect of lands in Athipattu village, Ponneri Taluk, for manufacture of salt. This indenture actually renewed the lease which was already in existence in favour of the private respondents where the private respondents had operated for more than 30 years. However, it appears that on the establishment of the North Madras Thermal Power Project at Ennore in the year 1998, the business was affected and the salt produced could not be marketed on account of alleged discolouring arising from the fly ash of the thermal station. This, coupled with other factors like absence of cheap labours and boats, etc., resulted in practically seizure of production in the area. Suffice to say that at some stage of time, the private respondents failed in making payment of the nominal lease amount of Rs.2/- per acre, which they were required to.

2.The Government of India / first respondent issued notices to these private respondents and ultimately, issued orders of termination of the lease. Such terminations have taken place through four different orders from September, 1998 to February, 1999.

3.Simultaneous development took place during this period of time. The request of the appellant, a State Government enterprise, for transfer of 1434 hectares of land to the State Government for establishment of Petrochemical Industrial Park at Ennore was favourably considered on terms and conditions specified in the letter dated 06.01.1999. The terms inter alia included payment of market value of land by the appellant to the Salt Department, Government of India, as may be determined by the Competent Authority of the State Government of Tamil Nadu. The relevant clause of controversy is as under:

> ''(iii)The State Government/TIDCO shall pay compensation to the lessees for extinguishing the lease hold rights which TIDCO and the lessees may arrive at through mutual negotiations.''

4.The controversy inter se the appellant and the private respondents arose on account of refusal of appellant to pay compensation to the private respondents as they claimed that in view of the termination of the lease by the first respondent, there was no subsisting leasehold rights to be extinguished for which any compensation was liable to be paid.

5.The learned Single Judge, by the impugned order dated 26.04.2007, however, allowed the writ petitions filed by the private respondents under Article 226 of the Constitution of India with a direction to the appellant to pay compensation to them in respect of the land taken over.

6.Learned counsel for the appellant seeks to contend before us that the nominal amount of charges payable were also not paid to the first respondent resulting in termination of the lease rights. Thus, once the lease rights stood terminated, there was no mandate on the appellant to compensate them. He submits that the Government of India / first respondent vide their letter dated 06.04.1999, while referring to the issue, had intimated to the appellant that they would be required to pay compensation to the lessees if the lease determination was revoked by the Competent Authority. His submission is that in case of disputes between the private respondents and the first respondent, the terms of indenture required an arbitration to take place, which the private respondents never invoked. The first respondent were within their rights to determine the lease on grounds of non-payment as per the terms and conditions of the lease, more specifically clause 22.

7.On the other hand, learned counsel for the private respondents pleads that though undoubtedly the leases were determined on account of non-payment, the private respondents did deposit the charges and on such deposit of charges, the first respondent treated them as if their leases stood restored. He has referred to the correspondences on record where the first respondent post determination has referred to the private respondents as ''lessees''. He, thus, submits that the appellant cannot be absolved of the liability to pay the compensation, which is the very basis of the land vesting in the appellant by the Central Government.

8.To our mind, the most crucial aspect is the stand of the first respondent itself in this behalf. In para 7 of their counter-affidavit, it has been categorically averred that the cancellation of the lease was not relevant to the issue of payment of compensation and could not be taken advantage of by the appellant to withhold the compensation money payable to the private respondents. Thus, the first respondent continues to acknowledge the private respondents as lessees on account of their having made up the payment which was due and thus, in effect, the same amounted to restoration of the lease. In this behalf, learned counsel for the private respondents has pointed out that there was even no due certificate issued at least in one of the cases and the occasion to issue that certificate would not have arisen if the lease was not subsisting.

9.Another factual aspect which is important is the possession of the land continued to be with the private respondents. It is on the understanding of receiving compensation that the private respondents voluntarily surrendered the possession to the first respondent, who thereafter handed over simultaneously to the appellant. Thus, clearly in so far as the relationship between the first respondent and the private respondents is concerned, both parties acted on the basis that there was a subsisting lease inter se the parties with all dues having been paid.

10.In the aforesaid situation, the appellant cannot be permitted to plead that their obligation arising from the terms of allotment to pay a specified amount to the holders of the lease for extinguishing of their rights is not required to be met by them on account of the so-called determination of the lease by the first respondent. This is also the conclusion of the learned Single Judge.

11.We are, thus, of the view that there is no merit in the appeals.

12.We may note at this stage that learned counsel for the appellant submits that there may be possibly other persons whose lease was also determined and may not have come to Court. If that be the position, they have to blame themselves for it, as they have never approached the Court for redressal of any grievance for the last 17 years and there should hardly be any apprehension on that account with the appellant.

13.Writ appeals are, accordingly, dismissed. No costs. Consequently, connected miscellaneous petitions also stand dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sra

To

1.The Deputy Salt Commissioner,
Shastri Bhavan,
Chennai 600 006.

2.The General Manager,
The TamilNadu Industrial Development Corporation Ltd.,
19-A, Marshalls Road,
Egmore, Chennai-8.

+1cc to Mr.A.Murugan, Advocate Sr.39482
+4cc to M/S.King & Partridge, Advocate Sr.39214,39215,39216,39217
+1cc to Mr.G.Jeremiah, Advocate Sr.39205

W.A.Nos.807 to 810 of 2007

ca[co]
srg 02/08/2016