

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No:35111 OF 2016

ORDER:

1. The present writ petition is filed by the petitioner under Article 226 of the Constitution of India, aggrieved over the order passed by the 3rd respondent, dated 21.4.2016.

2. In the affidavit, it is stated that the petitioner-unit was established to manufacture and supply of PSC sleepers for Indian Railways, especially catering to the bulk requirements of SC Railways, Southern Railways and South Western Railways apart from other zones. Earlier, the respondents gave the land on lease to Rayalseema Concrete Sleepers Private Limited for the purpose of manufacturing of PSC sleepers under lease agreement dated 13.1.2007 for the period from 1.1.2007 to 1.12.2011. Thereafter, the petitioner with the consent of Rayalseema Concrete Sleepers made a proposal to the respondents to transfer the contract in favour of the petitioner-company and to refix the land license fee. But the respondents delivered the possession of the land to the petitioner without refixation of the land license fee. The petitioner made several representations to the respondents-authorities for refixation of land license fee and for execution of lease agreement in favour of the petitioner. The 2nd respondent issued a circular dated 10.2.2005 stipulating guidelines for fixation of the license fee. Subsequently, another circular dated 8.6.2005 was issued by the 2nd respondent directing the railways to collect 6% of the land value while fixing the annual license fee and 7 ½% of the land value for covered area. The respondents-authorities fixed the huge price without obtaining market valuation certificate from the concerned revenue authorities and without following guidelines of the 2nd respondent. On 21.4.2016, the petitioner

received a letter from 3rd respondent demanding Rs.1,00,34,747/- towards arrears of the lease rent for the period from 1.4.2016 to 31.3.2017. The petitioner gave reply dated 23.7.2016 protesting such demand and requesting the respondents-authorities for refixation of land license fee as per the present market value. But the respondents-authorities have not responded. It is the case of the petitioner that as per the proceedings dated 21.4.2016, the land license fee was fixed at Rs.16,92,895/- for the year along with service tax at the rate of 14.5% and old dues are calculated at Rs.80,96,382/- and in total, the respondents demanded Rs.1,00,34,747/-. It is the grievance of the petitioner that the calculations are baseless and that the circular order dated 10.2.2005 clearly demonstrates that the petitioner is liable to pay only Rs.1,64,836.97 as per the market value certificate issued by the Senior Sub-Registrar, Yadgir and accordingly, the petitioner paid Rs.1,64,836.97 through D.D. dated 28.9.2016 and that the respondents threatened stating that they would collect the amounts from the pending bills.

3. Learned Counsel for the petitioner submitted that while calculating the license fee, if it is open area, it should be calculated at 6% of the land value and if it is a covered area, it should be calculated at 7.5% of the land value as per the guidelines. But without following the said procedure, the proceedings impugned were passed by the 3rd respondent herein. Further, it is submitted by the learned Counsel for the petitioner that the representations of the petitioner dated 27.4.2011, 31.8.2011 and 23.7.2016 are pending before the authorities concerned and the said representations have not been disposed of so far.

4. The main grievance of the petitioner is that without disposing the above representations and without following the procedure, exorbitant license fee was fixed by the 3rd respondent.

5. Considering the submissions made by the learned Counsel for the petitioner and the pendency of the representations of the petitioner, this Writ Petition is disposed of with the following directions:

“The 3rd respondent as well as the other respondents-authorities, before whom, the representations of the petitioner are pending, are directed to dispose of the said representations within a period of one month from the date of receipt of a copy of this order. Till disposal of the said representations, all the respondents are hereby directed not to insist the petitioner for payment of the license fee as per order dated 21.4.2016. If any amount has already been paid by the petitioner herein, the same shall be considered in accordance with the decision that would be taken on the representations of the petitioner. Further, the petitioner is at liberty to approach this Court, if aggrieved by any of the orders that would be passed on the representations made by the petitioner. It is made clear that while passing the orders on the representations made by the petitioner, an opportunity shall be given to the Manager of the petitioner-unit to appear and explain his case.”

No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 19th October, 2016
Nn.

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19/10/2016

Nn.