

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5.7.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.A.No.733 of 2017

M/s.Jagadeesan Petroleum Service,
Hindustan Petroleum Corporation
Dealer,
Rep. by its Partner D.Ramakrishnan,
C.N.College Complex,
Veerappan Chatram, Erode 638 004. Appellant

Versus

1. The Government of Tamil Nadu,
rep. by its Secretary to Government,
Revenue Department,
Fort St. George, Chennai-9.
2. The Special Commissioner and
Commissioner for Revenue Administration,
Ezhilagam, Chepauk, Chennai-5.
3. The District Revenue Officer,
Erode District, Erode. Respondents

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 2.3.2017 passed in W.P.No.16372 of 2003 on the file of this court.

Prayer:WP.No.16372/2003:Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent pursuant to his order dated 22/04/2003 made in proceedings No.21684/N.M.2.2/2001-3, quash the same and direct the Respondents herein to grant lease of the land of an extent of 0.29.00 hectares in survey Nos.272/1 and 272/2 in periyasemur

Village, Erode District in favour of the petitioner for a period of 30 years on such terms and Conditions as per Rules.

For appellant : Mr.S.Vijayakumar

For respondents : Mr.V.Jayaprakash Narayanan,
Special Government Pleader

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellant and the learned Special Government Pleader, who takes notice on behalf of the respondents.

2. It appears that originally, the land in dispute, where the petitioner is running a petrol bunk, was allotted to Sikkayya Naicker College, at free of cost, for running educational institution, but, subsequently, it was taken on lease by the appellant/writ petitioner, a dealer of Hindustan Petroleum Corporation about 30 years ago and such lease period is coming to an end in a year or two. In the meanwhile, it appears that the Government has taken a policy decision not to allow the commercial activity of running petrol bunk by the petitioner on the ground that it was allotted to the College only for educational purpose. Challenging the same, the writ petition was filed which came to be dismissed, as against which the petitioner is before this court.

3. Learned counsel for the appellant would contend that the appellant/writ petitioner, under bona fide impression that the College has got right to lease the site, has entered into lease agreement with the College and commenced the petrol bunk on the basis of the 'no objection certificate' issued by the Government and therefore, if the term of lease period is curtailed, by way of cancellation of 'no objection certificate' by the Government, it would cause great hardship to the appellant and they need reasonable time to evict the premises and moreover, the premises is also used only for a public utility of running a petrol bunk, without causing any disturbance to the running of educational institution or the students therein and therefore, seeks indulgence of this court.

4. The learned Special Government Pleader has submitted that the Government has taken a policy decision not to permit continuity of the lease in respect of the land which was allotted to the college for educational activities. He would further contend that the appellant/petitioner, having run the

petrol bunk in the Government land, is liable to pay a huge sum towards rental arrears from the year 1998, on the basis of the commercial value for the site.

5. From the factual matrix, it is seen that the appellant/writ petitioner has enjoyed the land on the basis of a lease for more than 28/29 years, which is also going to come to an end in a year or two. The Government had originally given 'no objection certificate' for running a Petrol bunk though the land was allotted to the College for educational activity. Later, when the Government had decided to take action against the writ petitioner, it appears that the appellant/writ petitioner filed a writ petition in W.P.No.14632 of 1988 wherein an order came to be passed by this court on 2.4.1988, observing that the revenue authorities ought not to have cancelled the 'no objection certificate' without taking action against the management of the College and based on such order, the Government had cancelled the grant made in favour of the college, by order dated 17.9.1999 and thereupon, it appears that the appellant/writ petitioner was continuing the running of petrol bunk.

6. The factual aspects being so, indisputably, the land belongs to the Government and the appellant/writ petitioner is liable to pay lease amount to the Government, to be calculated on the basis of commercial value. Therefore, the appellant/writ petitioner also cannot go scot-free. Rather, as via media, we are inclined to protect the interest of the appellant/writ petitioner as well as the Government/College. Therefore, we make it clear that if the subject land is very much required by the Government/College, for educational purpose or for activities of students, the same may be considered by independent decision. In the meanwhile, in order to avoid any inconvenience and hardship to the petitioner, which has already established petrol bunk running the same for about 28/29 years ago, on the basis of the lease which they had entered with the College, which is also coming to an end in a year or two, the respondents are directed to calculate the rental/lease arrears to be paid by the appellant/writ petitioner on the basis of the market value, within a period of one week from the date of receipt of copy of this order and within one week thereafter, the appellant/writ petitioner is directed to make such payment of rental/lease arrears to the Government, and in such event, the respondents can consider grant of 'no objection certificate' to the appellant/writ petitioner for running the petrol bunk till the term of lease expires. In the meanwhile, the appellant/writ petitioner also has to find some other place to establish the petrol bunk. It is also left with the Government to go for further leasing of the land in question and get revenue instead of allotting the land to the College, if it is

so advised, if it is not required for activities of the students of the college.

Modifying the order of the learned Single Judge to the above extent, the writ appeal is disposed of. No costs.

Sd/-
Assistant Registrar(CS VIIIi)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Government of Tamil Nadu,
rep. by its Secretary to Government,
Revenue Department,
Fort St. George, Chennai-9.
2. The Special Commissioner and
Commissioner for Revenue Administration,
Ezhilagam, Chepauk, Chennai-5.
3. The District Revenue Officer,
Erode District, Erode.

+1cc to M/s.S.Vijaya Kumar, Advocate SR.No.46720
+1cc to the Government Pleader SR.No.46891

W.A.No.733 of 2017

CP (CO)
GN(06/07/2017)

सत्यमेव जयते

WEB COPY