

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :27.07.2018
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.19588 of 2007
and
M.P.No.1 & 2 2007

E.J.Jose

... Petitioner

Vs.

1. The District Collector,
The Nilgiris.

2. The District Revenue Officer,
Udhagamandalam.

3. The Revenue Divisional Officer,
Coonoor.

4. The Tahsildar,
Coonoor.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the demand of the 4th respondent bearing Na.Ka.A/2/P.V.389/06 dated 06.05.2007 and quash the same and direct the respondents to levy lease rental in keeping with the terms of the lease agreement dated 22.06.1998 or on the existing marker value.

For Petitioner : Mr.S.Mukunth
for Sarvabhauman Associates

For Respondents : Mr.K.Ravikumar
Additional Government Pleader

O R D E R

The petitioner filed a writ petition challenging the demand order made by the 4th respondent dated 06.05.2007 wherein the 4th respondent is directed to the petitioner to pay a sum of Rs.5,00,592/- and quash the levy lease rental in keeping with the terms of the lease agreement dated 22.06.1998 or on the existing market value.

2. The case of the petitioner is that the petitioner, E.J.Jose and E.J.Verkeychan were issued lease to an extent of 1744 sq.ft in S.No.C/15/50 of Coonoor Town to use the same as approach road for 15 years from the year 1985 vide District Revenue Officers proceedings No.U1.No.5997/97 dated 21.10.1997. The lease period has come to an end on the AN of 20.10.2000. Survey No.C/15/50 of Coonoor Town stands registered as "waste" in Revenue records with an extent of 0.83.29 Hectares. The lease land is situated at the left hand side about 100 meters away from Coonoor Bus Stand to Mount Pleasant Road. Inspection were conducted by the Tahsildar and Revenue Divisional Officer Coonoor to renew the lease period from 21.10.2000. During the inspection it was found that the lessee was enjoying 10107 sq. ft of land in Survey No.C/15/50 instead of 1744 sq. ft. Out of this 10107 sq.ft, the Lessee is using 8676 sq.ft of land as approach road for the access to his bungalow and 1431 sq.ft of land as approach road for the access to his tea estate. The respondent issue demand order. Hence, the petitioner filed a writ petition.

3. The learned Additional Government Pleader submitted that as on date the due amount with regard to the payment of lease rent was more than Rs.80,00,000/-. Unless the petitioner show his bona fide by payment of some amount to the respondent no leniency will be shown to the petitioner.

4. Repudiating the contention of the learned Additional Government Pleader, the learned counsel for the petitioner would submit that there is disputed issue involved in this case. The original lease area is 1744 sq.ft, however after inspection respondents are claiming 10107 sq.ft and without notice to the petitioner, the respondent fixed the present enhanced lease rent amount to the larger extent area. Hence it is necessary that this Court remand the matter back to the authority for fresh inspection in the presence of the petitioner. In order to show his bona fide, the petitioner is ready to deposit any amount that is to be fixed by this Court.

5. Considering the arguments advanced by the learned counsel for the petitioner as well as the learned Additional Government Pleader in order to meet the interest of justice, since the matter involve disputed question of facts that initially lease rent was fixed to an extent of 1744 sq.ft. and now the claim is 10107 sq.ft which has to be decided in the manner known to law by the fact finding authority, and considering the balance of convenience, there will be a direction to the petitioner to deposit a sum of Rs.15,00,000/-(Rupees Fifteen Lakhs only) by way of demand draft to the District Revenue Officer, Uthagamandalam within a period of three weeks from the date of

receipt of a copy of this order. After receipt of the said amount the District Revenue Officer, Uthagamandalam, shall depute or authorise concerned official to conduct an enquiry and after measuring the property, fix the amount as per law applicable as on date with regard to fixing the lease rent.

6. With the above direction, the Writ Petition is disposed of. Consequently connected Miscellaneous Petition are closed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
The Nilgiris.
2. The District Revenue Officer,
Udhagamandalam.
3. The Revenue Divisional Officer,
Coonoor.
4. The Tahsildar,
Coonoor.

+1cc to the Government Pleader, S.R.No.51851

W.P.No.19588 of 2007

GSP(01/08/2018)

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