

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2019

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. 17208 of 2008
and
M.P. 1 of 2008

C.Mary Bensi

... Petitioner

Versus

1. The District Collector,
Ooty,
The Nilgiris.

2. The Tahsildar,
Coonoor,
The Nilgiris.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records of the 2nd respondent herein dated 04.07.2008 in Proceedings Na.Ka.A2 19593/2004 and quash the same.

For Petitioner : Mr.G.Karthikeyan

For Respondents : Mr.I.Sathish,
Addl. Govt. Pleader for R1 and R2

O R D E R

This Writ Petition has been filed challenging the demand notice issued by the 2nd respondent to pay the arrears of lease amount.

2. According to the petitioner, in the year 1971, an extent of 688 sq.ft. of land in Old Survey No.1916/1 and R.S.No.NP/22/11 situated at No.51/20, T.T.K. Pillai Road, Coonoor, The Nilgiris District was leased out to the petitioner's father-in-law one R.Thomas. After the death of original lessee, the petitioner's husband late T.Christopher has become a lessee, and after his death, the petitioner is in possession and enjoyment of the property. Since there was an arrears of lease amount to an extent of Rs.81,043/-, the impugned notice has been issued by the 2nd respondent directing

the petitioner to pay the arrears, failing which, appropriate proceedings will be initiated in accordance with law. Challenging the above notice, the present Writ Petition has been filed.

3. Mr.G.Karthikeyan, learned counsel appearing for the petitioner would submit that, originally, the lease amount was fixed at Rs.350/- per annum, and the 2nd respondent has revised the lease amount exorbitantly without issuing any notice whatsoever.

4. The respondents have filed a counter affidavit stating that originally, the lease was granted to one Mr.R.Thomas, petitioner's father-in-law, fixing the rent of Rs.350/- per annum in the year 1971. Thereafter, as per G.O.Ms. No.460, Revenue Department, dated 10.03.2005 and Government letter No.155, Revenue Department, dated 10.03.2005, the lease rent has been increased every three years on 14% of the land value from the year 2008 and hence, there is a arrears of Rs.89,043/- to be paid by the petitioner. In the above circumstances, without paying the lease amount, challenging the order passed by the 2nd respondent, the present Writ Petition has been filed. The learned counsel has also filed a detailed calculation memo regarding the revision made every three years.

5. I have considered the rival submissions and perused the records carefully.

6. On perusal of materials available on record, it could be seen that the lease has been granted in the year 1971. Thereafter, as per the G.O. Ms. No.460, dated 10.03.2005, the rent has been increased every three years. The calculation memo filed by the respondent would clearly shows that there is a rent arrears of Rs.81,043/-. But, without paying the arrears, the petitioner has come forward with this Writ Petition. It is now submitted that even after filing the Writ Petition, the petitioner has not paid the lease amount, and as on 2012, there is an arrears of Rs.6,85,613/-. In the above circumstances, without paying the lease amount, the petitioner cannot maintain this Writ Petition and the same is only liable to be dismissed. Accordingly, the present Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition in M.P. 1 of 2008 is closed.

s/d-

Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

rpp

To

1. The District Collector,
Ooty, The Nilgiris.

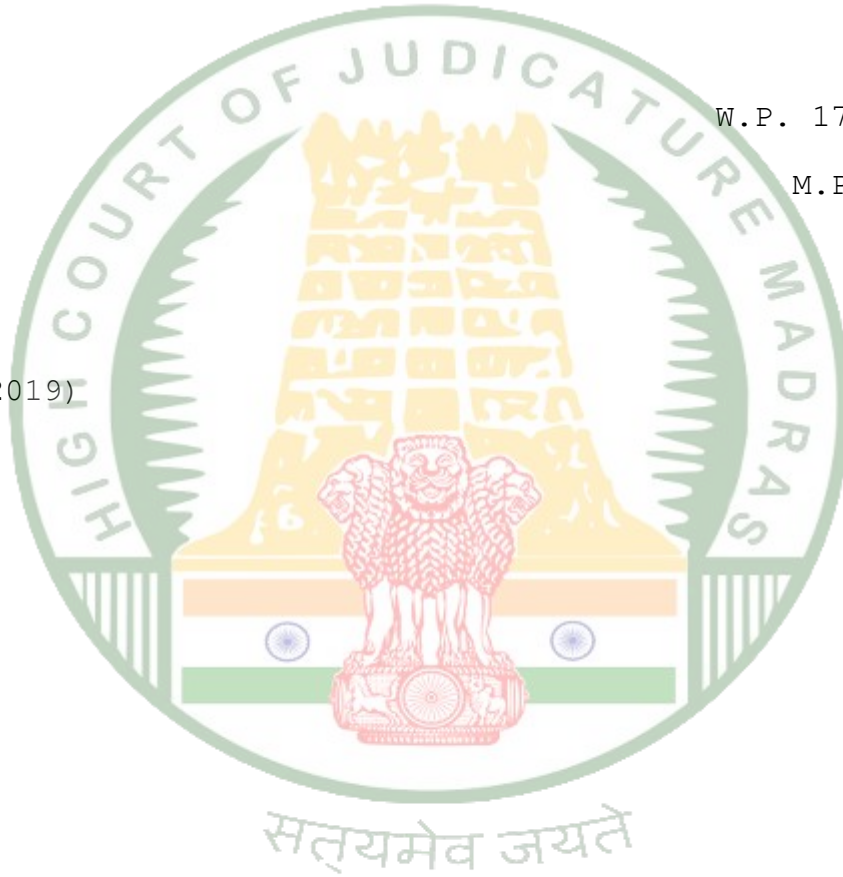
2. The Tahsildar,
Coonoor, The Nilgiris.

+1 CC to Mr.G.Karthikeyan, Advocate sr 87419

+1 CC to Govt. Pleader sr 88245.

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and
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AD(CO)
SP(26/11/2019)



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