

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.Nos.27935 and 27936 of 2004
and WPMP.Nos.33957 and 33958 of 2004

Tamil Isai Sangam

Rep. by its Assistant Secretary,
M.Ramaiah,

Rajah Annamalai Mandram,

Esplanade, Chennai 600 108.

.... Petitioner in both the
petitions

Vs.

1. State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Fort St. George, Chennai 600 009.
2. The Collector of Chennai,
Chennai District,
Collectorate, First Line Beach, Chennai.
3. The Tahsildar,
Fort-Tondarpet Taluk,
Chennai 600 003.

... Respondents in both the
petitions

Prayer in W.P.No.27935 and 27936 of 2004: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the third respondent relating to the impugned Notice bearing No.B3/23735/95, dated 20.08.2004, 03.09.2004 and to quash the same respectively.

For Petitioner : Mr.G.Masilamani, Senior Counsel,
for G.M.Mani Associates

For Respondents: Mrs.K.Bhuvaneswari, AGP

C O M M O N O R D E R

These Writ Petitions have been filed to quash the orders of the third respondent dated 20.08.2004 and 03.09.2004.

2. The order under challenge in the present Writ Petitions is to the revision of the lease rent of the petitioner's property in Survey No.11378/40, which is claimed to have been leased out to the petitioner for a term of 99 years from 28.04.1950. The original earlier lease rent that was fixed at Rs.1,000/- is now sought to be revised with effect from 01.07.1978 till 30.06.2004 and the lease rent together with the Municipal Tax have been worked out to a sum of Rs.7,92,83,107/-. Subsequently, after obtaining the guideline value, the original demand came to be enhanced to a sum of Rs.8,05,30,975 through an order dated 03.09.2004.

3. Though the petitioner has raised several grounds challenging the revision, one of the main ground raised in the present Writ Petitions is that the impugned revision is per se violative of the principles of natural Justice, since the petitioner has not been given an opportunity to explain his stand before the retrospective revision.

4. Perusal of the impugned notices does not reveal that the petitioner was put on prior notice, in order to give an opportunity to substantiate that they were not liable to pay the revised rent retrospectively, along with the Municipal Tax.

5. It is now brought to the notice of this Court that insofar as the property tax is concerned, the petitioners are remitting the same to the Corporation of Chennai and what requires to be challenged is only the revised lease rent. In the light of the fact that the respondents had chosen to retrospectively revise the lease rent from 1978 onwards, which is after a period of at least 25 years, natural justice requires that the petitioner ought to have been given a prior show cause notice and on consideration of the explanation given, they should have conducted a proper enquiry, before revising the lease rent. In the absence of the same, the order itself is liable to be set aside on the ground of the violation of the principles of natural justice, as enshrined in the Constitution of India. On this short ground, the petitioner is entitled to succeed.

6. For all the foregoing reasons, the impugned notices dated 20.08.2004 and 03.09.2004 on the file of the third respondent are set aside. Consequently, the entire matter is remanded back to the third respondent herein for consideration afresh, after giving prior show cause notice to the petitioner herein calling for their explanation. On receipt of any explanation to the show cause notice, the third respondent herein shall duly consider the same, in accordance with its own merits and pass appropriate orders. In case the third respondent is not satisfied with the

explanation, proper enquiry shall be conducted after giving due opportunity to the petitioner to make his oral and written representations and pass appropriate orders in accordance with law. Such an exercise shall be completed as expeditiously as possible. The Writ Petitions stand ordered accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

pvs

To

- 1.The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Fort St. George, Chennai 600 009.
2. The Collector of Chennai,
Chennai District,
Collectorate, First Line Beach, Chennai.
3. The Tahsildar,
Fort-Tondarpet Taluk, Chennai 600 003.

+2 cc's to M/s.G.M.Mani Associates, Advocate,
Sr.No. 40409,40410

+1 cc to The Government Pleader, Sr.No. 41219

W.P.Nos.27935 and 27936 of 2004

CSL/01.07.2019

सत्यमेव जयते

WEB COPY