

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.3191 of 2009

and

M.P.No. 1 of 2010

M/s.RDS Projects Limited
1A, Padmalaya Towers
64 & 65, Janaki Avenue,
M.R.C.Nagar,
Chennai - 600 028.

... Petitioner

Vs.

1. The State
Rep. by its Commissioner and
Secretary to Government
Municipal Administration and
Water Supply Department,
Fort St.George,
Chennai - 600 009.
2. Tamil Nadu Road Development Company Limited,
Sindur Pantheon Plaza, II Floor,
346, Pantheon Road,
Egmore,
Chennai - 600 008.
3. The Commissioner Municipal Administration,
Ezhilagam Annexe,
Chepauk,
Chennai - 600 005.
4. The Commissioner,
Tiruvottriyur Municipality,
Chennai - 600 019.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st Respondent in its proceedings vide G.O.(Ms).No.260 Municipal Administration and Water Supply (MA5) Department dated 19.12.2008 and to quash the same and consequently direct the 1st respondent to fix the nominal rent as per the request of the 2nd respondent's letter dated 31.10.2006 along with the petitioner's requests dated 04.05.2006, 10.07.2006 & 28.8.2006.

For Petitioner : Mr.R.Shanmuga Sundaram
Senior Counsel
for M/s.P.Arivudainambi

For Respondents : Mr.S.R.Rajagopal, AAG
Assisted by Mrs.K.Bhuvaneswari,
Additional Government Pleader
for R1 & R3
M/s.M.Sivavarthanam
for R2
M/s.K.Rajendraprasad
for R4.

O R D E R

The prayer sought for in this Writ Petition is for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in proceedings vide G.O.(Ms).No.260 Municipal Administration and Water Supply (MA5) Department dated 19.12.2008 and to quash the same and consequently direct the 1st respondent to fix the nominal rent as per the request of the 2nd respondent's letter dated 31.10.2006 along with the petitioner's requests dated 04.05.2006, 10.07.2006 & 28.8.2006.

2. This writ petition is filed by M/s. RDS Projects Limited challenging G.O.Ms.No.260, dated 19.12.2008, wherein the monthly rent for an extent of 8.57 Acres of land at T.S.No.27 owned by Thiruvottriyur Municipality was fixed at Rs.8,38,254/- for a period of 3 years from 09.07.2003 to 08.07.2006. The place (site) was taken on lease by Tamil Nadu Road Development Company Ltd., (TNRDC) who are the Managing Associates of National Highways Authority of India Project. The TNRDC had handed over the place (site) to M/s. RDS Projects Limited for stocking of boulders in that area in order to avoid keeping them on road thereby to prevent traffic congestion. The TNRDC had handed over the site to the Contractor of National Highways Authority of India (NHAI) viz., M/s. RDS Projects Limited. It is a case of TNRDC, evidenced by the correspondence dated 10.11.2006 in DO Lr. No. D/606/TNRDC/00/DP(V)/06, that there was understanding that only token rent would be charged by the competent Authority.

3. Per contra, Thiruvottriyur Municipality had raised a demand of rent for the lease land calculated the rental value at Rs.2,38,000/- per month. Upon receipt of the demand, they had forwarded the same to M/s. RDS Projects Ltd., RDS had challenged the same in writ petition No.9210 of 2006.

4. This Court by an order dated 03.04.2006, was pleased to dispose of the writ petition with a direction to the respondents to finalize the rate of rent payable for an extent of 8.57 Acres of land, situate at 27, Ennore Expressway, Thiruvottriyur, Chennai - 19 for a period of 3 years from 09.07.2003 ending 08.07.2006. The said determination was to be made within a period of 4 weeks of the production of the copy of the order. The Bank Guarantee given by the writ petitioner / RDS Projects Ltd., was to be kept alive till orders determining the rent is passed by the respondents and communicated to the writ petitioner.

5. There after, the Government determined the rent and imposed higher amount against the Thiruvottriyur Municipality to the tune of Rs.8,38,254/-, challenging which, the present writ petition is filed.

6. The learned Senior counsel appearing for the petitioner would submit that the project was carried out by the National Highways Authority of India (NHAI) viz., M/s. RDS Projects Limited for a public purpose and the project is of national importance. However, without considering the same, the Commissioner of Municipal Corporation, Chepauk has fixed the rent on high scale. Therefore, he prays to quash the impugned order dated 19.12.2008.

7. The learned Additional Advocate General appearing for the respondents 1 and 3 produced a letter dated 12.07.2019 and submitted that the authority has itself arrived at a fair conclusion. It is stated that in a project of national importance, the rent ought not be at market rate and should only be on a token value. Further, TIDCO and TNRDC in their communications dated 10.11.2006 and 31.10.2006, have clearly indicated that the project was for public purpose and of national importance and the rent should be at a nominal value. Accordingly, he prays for pass appropriate orders in the present petition.

8. In view of the above submission, this Court perused the letter of TIDCO & TNRDC dated 10.11.2006 & 31.10.2006 respectively. Without considering the above said letters, the impugned order was passed mechanically, which cannot be sustainable one. Accordingly, I am inclined to quash the order dated 19.12.2008 in G.O.Ms.No. 260 and remand the matter back to the concerned Authority.

9. The concerned Authority must consider that the project is of national importance and for public purpose. The concerned Authority is directed to pass appropriate orders and fix the nominal rate after taking into consideration of the letter dated

10.11.2006 and the communication dated 31.10.2006, within a period of 6 weeks from the date of receipt of a copy of this order.

10. Accordingly, the present writ petition is allowed on the above terms and the impugned order dated 19.12.2008 is quashed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

kmm

To

1. The Commissioner and Secretary
Secretary to Government of Tamil Nadu
Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai - 600 009.

2. The Commissioner Municipal Administration,
Ezhilagam Annexe,
Chepauk,
Chennai - 600 005.

3. The Commissioner,
Tiruvottriyur Municipality,
Chennai - 600 019.

+1 Cc to Mr.P. Arivudai Nambi, Advocate sr 67687

+1 CC to Govt. Pleaders sr 68127.

+1 CC to Mr.S.Saravanan, Advocate sr 67646.

+1 CC to Mr.M.Sivavarthanan, Advocate sr 67383

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SP(14/09/2019)