

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2019

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. 22001 of 2005
and
W.P.M.P.23958 of 2005

Smt. S.B.R. Sukh, (deceased)

2. S.Ramachandran
Partner,
M/s.Shoba Gas Service,
42, New Tank Street,
Nungambakkam,
Chennai-600 034.

P2 substituted in the place of
deceased S.B.R.Sukh
as per order dated 03.10.2019
in W.P.M.P. 72 of 2014 Petitioner

Versus

The Tahsildar,
Egmore-Nungambakkam Taluk Office,
Chetpet,
Chennai-600 031. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for records of the respondent made in A2/3614/1989 dated 29.06.2005 and quash the same and forbearing the respondent either by taking any further proceedings pursuant to the impugned Notice A2/3614/1989 dated 29.06.2005 or making any demand to pay the enhanced rent from 28.09.1976 retrospectively without renewing the lease with terms.

For Petitioner : Mr.A.Navaneethakrishnan,
Senior Advocate for
Mr.P. Gunaraj

For Respondent : Mr.I.Sathish,
Addl. Govt. Pleader for R2

O R D E R

This Writ Petition has been filed challenging the demand notice issued by the respondent directing the petitioner to pay a lease rent arrears of Rs.42,68,031/-.

2. The case of the petitioner is that an extent of 1 ground 1070 sq.ft. of land is leased out to one Smt. S.B.R.Sukh by an order dated 30.05.1977, for the period of 20 years from 28.09.1976. Originally, the lease rent was fixed at the rate of Rs.3522/- for the initial period of five years, and the lease rent is subject to revision periodically. Thereafter, the lease amount was not revised by the respondent, and the lease period was also expired in the year 1996. Now, the impugned demand notice has been issued in the year 2005 directing the lessee to pay a sum of Rs.42,68,031/- from the year 1976 to 2004. Pending Writ Petition, the original lessee was said to have died on 10.02.2007, now, a impleading petition has been filed by the petitioner, who is claiming to be a partner of one M/s.Shoba Gas Service, in which the original lessee S.B.R. Sukh was also a partner.

3. Mr.A.Navaneethakrishnan, learned Senior Counsel appearing for the petitioner would contend that, the above demand notice has been issued without issuing any notice, and without any enquiry, the respondent has unilaterally revised the lease rent, and directed the petitioner to pay the arrears more than Rs.42 lakhs, and the impugned order has been passed in total violation of principles of natural justice. Hence, the impugned order is liable to be set aside, and an opportunity may be given to the petitioner to raise his objection before revising the rent.

4. Mr.I.Sathish, learned Addl. Government Pleader appearing for the respondent would contend that, originally, the lease was granted to S.B.R.Sukh for the period of 20 years, the lease amount is liable to be revised, the petitioner has agreed for that condition. Now, it is not open to him to make a grievance that the lease rent has been revised without any notice whatsoever. Hence, the lease rent has been revised as per law, and there is no infirmity in the impugned order passed by the respondent.

5. I have heard the learned senior counsel appearing for the petitioner as well as learned counsel appearing for the respondent and perused the records carefully.

6. On perusal of the impugned order, it could be seen that the lease rent has been revised by the respondent retrospectively from the year 1981 to 2004, and break-up details for the revision of lease amount was not given in the order. The

impugned order simply fixes the amount for every break-up period of five years and finally, arrived at a sum of Rs.42,68,031/-. It could also be seen that before issuing the demand notice, no enquiry has been conducted, and no opportunity was given to the petitioner. In the above circumstances, without going into the merits of the case, I am inclined to set aside the order passed by the respondent on the ground of violation of principles of natural justice. Accordingly, the impugned order passed by the respondent in No. A2/3614/1989, dated 29.06.2005 is set aside, and the matter is remanded back to the respondent. The respondent is directed to issue show cause notice to the petitioner, thereafter, conduct an enquiry by giving opportunity to the petitioner before revising the lease amount and to pass suitable orders on merits and in accordance with law. The above exercise should be completed within a period of six weeks from the date of receipt of the copy of this order. No costs. Consequently, the connected Writ Petition Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

rpp

To

The Tahsildar,
Egmore-Nungambakkam Taluk Office,
Chetpet,
Chennai-600 031.

+1cc to Mr.P.Gunaraj, Advocate, S.R.No.84396
+1cc to the Government Pleader, S.R.No.85076

W.P. 22001 of 2005

and

W.P.M.P. 23958 of 2005

VG II(CO)
GN(21/11/2019)

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