

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2019

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.No.6521 of 2010

M.A. Khizar Hussain & sons,
117, Chennai Mumbai Trunk Road,
Ranipet, Vellore District,
A partnership firm,
rep by its partner
M.Md.Shameem

... Petitioner

/vs/

1. State of Tamil Nadu
rep. by Secretary to Government,
Revenue Government,
Fort. St. George, Chennai -9.

2. The District Revenue Officer,
Office of the District Collector,
Vellore.

3. The Tahsildar,
Walaja,
Vellore District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari Mandamus to call for the impugned proceedings of the third respondent in Na.Ka.(Aa.1) 14616/2008 dated 22/12/2009 quash the same and direct the respondents to renew the lease to grant 15 cents of land in S/No.2/4, Pinji Village, Wallaja Taluk, Vellore District, in the possession of the petitioner.

For Petitioner : Mr. V. Selvaraj
For Respondents : Mr. D. Suriyanarayanan,
Govt. Advocate.

O R D E R

This writ petition has been filed challenging the order passed by the third respondent/Tahsildar directing the petitioner to pay a sum of Rs.9,53,926/- towards the balance of lease amount.

2. According to the petitioner-company, the respondent/ Government granted lease to them of an extent of 2533 sq. meters of land in Survey No.2/4 of Pinji Village, Walaja Taluk. On 26.12.2008, the petitioner sent letters to the 2nd respondent for renewal of 15 cents of land. On 22.12.2019, the third respondent sent a notice to the petitioner directing him to pay a sum of Rs.9,53,926/- as rental arrears for the year 2008-2009. The annual rent was fixed at Rs.42,055/-. The petitioner has paid the rent till 2008. Since the petitioner was in possession of 15 cents of land and he has also been paying the rent at the rate of Rs.42,000/- per year, there is no need for paying the excess amount. Since the petitioner is in possession of only 15 cents of land, the impugned order passed by the third respondent is illegal and in violation of principles of natural justice and hence, the petitioner has filed the writ petition.

3. The respondents filed a counter affidavit stating that the total extent of land granted to the petitioner was 2533 sq.meters under Order No. 24, of the Revenue Standing Orders by the Government, in G.O.(Ms.) No.,899, Revenue Department, dated 12.12.1994 for a period of 3 years, on payment of lease rent at the rate of 14% on the prevailing market value of the lease hold land. Thereafter, the lease was renewed periodically and the details of the lease amount fixed by the respondent up to 2009 had also been detailed by the respondents in the counter. According to them, the total lease amount from 1994-2004 comes to Rs.31,61,217/-. But, the petitioner has only paid a sum of Rs.3,29,995/- and there are arrears of Rs.28,31,222/- as raised in the audit objection. Even though the lease was granted only for a period of 3 years, the petitioner has not taken any action for renewal of the same. But he is continuously using the Government land, as per the Government instructions, now the lease amount is worked out and the petitioner was directed to pay the amount.

4. The learned counsel for the petitioner submitted that the lease was granted to the petitioner for a sum of Rs.42,055/- and the petitioner has been continuously paying the amount. Now, all of a sudden, without any notice whatsoever, only based on some audit objection, the impugned order has been passed, directing the petitioner to pay a sum of Rs.9,53,926/-, which is in violation of principles of natural justice.

5. The learned Government Advocate appearing for the respondents submitted that, when the lease was granted to the petitioner, there was a specific condition that the lease amount will be calculated at the rate of 14% on the prevailing market value of the property and periodically, the said amount has been revised. But without paying the revised lease amount, the petitioner cannot challenge the impugned order.

6. I have considered the rival submissions and perused the impugned order.

7. On perusal of the impugned order, it is seen that the petitioner was directed to pay the arrears of lease amount to an extent of Rs.9,53,926/-, the above order has been passed based on the audit objection. Even though in the impugned order it is stated that the arrears of amount payable by the petitioner is Rs.9,53,926/-, in the counter filed by the respondent, it is stated that is an arrears of Rs.28,31,222/-, which is totally contrary to the impugned order. That apart, admittedly, the impugned order has been passed only based on the audit objection, without giving any notice and opportunity of hearing to the petitioner by conducting any enquiry whatsoever.

8. In the above circumstances, I am of the considered view that the impugned order passed by the third respondent is liable to be set aside on the ground of violation of principles of natural justice.

9. In the result, the impugned order passed by the third respondent in and by his proceedings in Na.Ka.(Aa.1)14616/2008 dated 22.12.2009 is set aside, and the matter is remanded back to the third respondent. The third respondent is directed to conduct enquiry after issuing notice to the petitioner and pass final orders after giving an opportunity of hearing to the petitioner. The above exercise shall be completed within a period of twelve(12) weeks from the date of receipt of a copy of this order.

10. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

Mrp

To

1. State of Tamil Nadu
rep. by Secretary to Government,
Revenue Government,
Fort. St. George, Chennai -9.
2. The District Revenue Officer,
Office of the District Collector,
Vellore.

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3. The Tahsildar,
Walaja,
Vellore District.

W.P.No.6521 of 2010

MG (CO)
GN (08/11/2019)



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