

Order dated 06.11.2020
in Appl.No.2587 of 2020 in C.S.No.204 of 1940

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Application No.2587 of 2020
in
C.S.No.204 of 1940

1. M.Singaravelu Chetty,
2. M.V.Abbu Chetty
3. K.Ayyavoo Mudaliar
4. K.P.Kothandarama Chetty .. Plaintiffs in C.S.No.204 of 1940

1. M.Munuswamy Chetty,
2. M.Balaji Chetty
3. M.Ramachandra Chetty .. Defendants in C.S.No.204 of 1940

R.P.Darmalilngam, S/o Late Ramakrishnan
.. Applicant in Appln.No.2587 of 2020

Vs.
The Administrator General and Official Trustee of Tamil Nadu,
High Court, Chennai.

.. Respondent in Appln.No.2587 of 2020

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Application No.2587 of 2020 in C.S.No.204 of 1940 filed - Judge's Summons - under Order XIV, Rule 8 of the Original Side (O.S) Rules of this Court, and Read with Section 151 of the Civil Procedure Code (CPC), praying to extend the lease in favour of the applicant in respect of the property comprised in Survey No.240/1, ad-measuring an extent of 1 acre 71 cents, situated at No.105, Thiruporur Village, Thiruporur Taluk, Kancheepuram District for a period of two years from 01.05.2020 to 30.04.2022.

For applicants : Mr.B.Kumar, Senior Counsel for M/s.M.Vivekanandan

For respondent: Mr.P.Murugan,
Administrator General and Official Trustee (A.G. & O.T).

ORDER

This application had been filed praying to extend the lease in favour of the applicant in respect of the property comprised in Survey No.240/1, ad-measuring an extent of 1 acre 71 cents, situated at No.105, Thiruporur Village, Thiruporur Taluk, Kancheepuram District, for a period of two years from 01.05.2020 to 30.04.2022.

2. In the affidavit filed in support of the present application, it is stated by the applicant that the land comprised in Survey No.240/1, measuring an extent of 1 Acre 71 Cents, situated at No.105, Thiruporur Village and Taluk, erstwhile Kancheepuram District, presently Chengalpattu District, was owned and possessed by Mylai Kandappa Chetty and Arunachala Chetty Trusts and Charities, which are administered by the respondent-A.G. & O.T. While so, Mr.R.Mahaprabu filed Application No.5328 of 2007 before this Court to allot the said land on a long term lease for a period of 50 years on the terms and conditions to be stipulated by this Court. In the said A.No.5328 of 2007, this Court directed the respondent-A.G. & O.T. to hold public auction after making due publication, pursuant to which, the respondent-A.G. & O.T. conducted a public auction and submitted a report before this Court, and out of 9 persons, the applicant herein was the successful/highest bidder in the said auction. The said land was leased out to the applicant herein on an annual rent of Rs.1 lakh and this Court, vide order dated 18.04.2009, confirmed the lease for the said land in favour of the applicant for a period of one year, with an option for renewal. The said lease commenced from 01.05.2009 and ended on

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30.04.2010. Subsequently, the lease was extended by various orders of this Court and lastly, the lease was extended upto 30.04.2018. The applicant approached this Court for extension of lease of the said land in Application No.3936 of 2018, which was allowed on 08.06.2018, extending the lease of the said land for a further period of two years from 01.05.2018 to 30.04.2020. A sum of Rs.5 lakhs was fixed as rent with two years lease in respect of the said property. Since the lease period had expired, the present application is filed by the applicant for the relief stated supra.

3. In the present application, the learned A.G. & O.T. had filed a report, dated 05.11.2020, stating that, the vast land of 1.71 Acres had been taken out by lease for the purpose of road access to reach the housing development area developed by the applicant. Out of 1.71 acres, hardly 35 to 40 cents alone had been used for road and the remaining area of the lands is kept idle. It is further stated in the said report that the enhancement quoted by the applicant at the rate of 20% on the last annual rent of Rs.2,50,000/-, is very low, while considering the cost of the land at the rate of Rs.536/- per Sq.Ft., which comes to about Rs.4 crores. The return from the land by way of rent is very low, considering the land value and the

interest on the Fixed Deposit. Therefore, the learned A.G. & O.T. stated in the above report that he had assessed nearly Rs.4 lakhs per month as damages, as mentioned in the notice dated 23.09.2020 issued by him to the applicant. Hence, the learned A.G.& O.T. in the said report, prayed that the annual rent may be substantially enhanced atleast to 100% on the last annual rent and the lease may be given for another two years from 01.05.2020 to 30.04.2022, with a condition to pay the entire lease amount within one month and thereafter, to register the lease agreement.

4. The above said report of the learned A.G. & O.T. was opposed by the learned Senior Counsel for the applicant stating that the applicant is not earning any income out of the said land and is using the said land only as a path-way to reach their land, where the applicant is developing houses and doing other construction activities and moreover, out of 1.71 acres, only 35 to 40 cents alone is being used as road-access.

5. However, the learned A.G. & O.T. insisted for fixation of annual rent with 100% enhancement.

6. Per contra, the learned Senior Counsel appearing for the applicant submitted that the applicant is not earning any income from the land in

question and he is using it only as path-way and under such circumstances, 100% enhancement in the rent would be onerous.

7. Keeping in mind the submissions made on either side and also considering the said report of the learned A.G. & O.T., this Court is of the opinion that a sum of Rs.3,25,000/- for each year, can be fixed as the annual lease rent for the next period of two years from 01.05.2020 to 30.04.2022. Accordingly, the lease rent of Rs.3,25,000/- is fixed for each of the two years, totalling Rs.6,50,000/- on condition that the entire lease amount of Rs.6,50,000/- should be paid by the applicant within one month from the date of receipt of a copy of this order, and only thereafter, the registered lease shall be executed by the applicant.

8. Accordingly, the present application is ordered to the extent indicated above. No costs.

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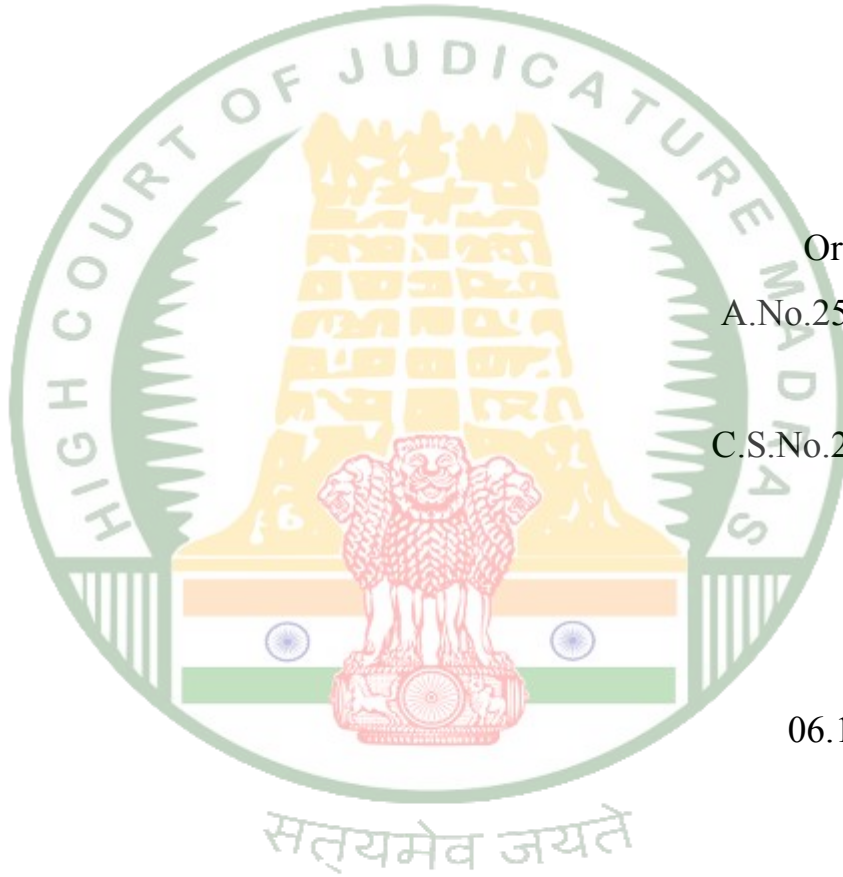
Speaking Order: Yes

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R.SUBBIAH, J

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