



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2020

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P.(MD)No.22394 of 2016 and
W.M.P.(MD)Nos.16037 & 16038 of 2016

Tiruchirapalli City Land Lease Merchants Welfare
Association,
Rep. by its Secretary,
Rabindran Kamak,
No.148, West Bouleward Road,
Trichy - 620 008.

... Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by its Secretary to Government,
Dept. of Local Administration,
Chepauk, Chennai - 600 009.
2. The Secretary,
Municipal Administration & Water Supply
Department,
Secretariat, St. George Fort,
Chennai - 600 009.
3. The Director,
Municipal Administration,
Ezhilagam, Beach Road,
Chennai - 600 005.
4. The Commissioner,
Tiruchirappalli Corporation,
Tiruchirappalli.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to quash the impugned order dated 28.07.2016 bearing reference No.Na.Ka.N.A1/2550/2010/sri dated 28.07.2016 issued by the fourth respondent and to consequently, direct the fourth respondent to continue to collect the rents from the petitioner-association at the prevalent rate.



For Petitioner : Mr.V.Karthic,
Senior Counsel,
for Mr.Rajnish Pathiyil.
For R-1 to R-3 : Mr.P.Mahendran,
Additional Government Pleader.
For R-4 : Mr.N.S.Karthikeyan,
Additional Government Pleader.

O R D E R

Heard, Mr.V.Karthic, learned Senior counsel, assisted by Mr.Rajnish Pathiyil, learned counsel appearing for the Writ petitioner-association and Mr.P.Mahendran, learned Additional Government Pleader appearing for respondents 1 to 3 and Mr.N.S.Karthikeyan, learned Additional Government Pleader appearing for the respondent corporation.

2. The fourth respondent corporation had let out parcels of the land in West Boulevard Road, Srirangam, to a number of lessees. It was collecting ground rent from them. The lessees had in turn put up superstructures there on. It is stated that the lessees were paying ground rent at the rate of 35 Paisa per sq.ft. originally. The lease amount was revised and enhanced to 44 Paisa per sq.ft. in the year 2001. While so, the Government issued G.O.Ms.No.147 dated 30.12.2000 calling upon the local bodies to fix the rent as per market rates, after the block period of nine years is over. Invoking the said Government Order, the fourth respondent issued proceedings in the year 2004 revising and enhancing the ground rent from 44 paisa per sq.ft. to Rs.6.00 per sq.ft. This move on the part of the corporation was challenged by the individual lessees/occupants. By order dated 27.04.2016, a learned Judge of this Court directed the Corporation to take a call in the matter by considering the representation of the writ petitioner-association. Pursuant to the aforesaid direction given by this Court, the impugned order dated 06.06.2016 came to be passed and the ground rent was revised and enhanced to Rs.6.00/- per sq.ft. with effect from 01.04.2001 onwards. This is under challenge in this writ petition.

3. The corporation filed a detailed counter affidavit. The learned Standing counsel appearing for the corporation reiterated all the contentions set out therein.

4. The learned Senior counsel appearing for the writ petitioner-association submitted that by the order passed in the year 2016, if the ground rent is retrospectively revised and enhanced with effect from 01.04.2001 onwards, it would cast unbearable burden on the members of the petitioner-association. He also pointed out that the corporation had revised and enhanced the rent that was being paid by the occupants in the year 2001. When enhancement had already taken place in the year 2001, it was not



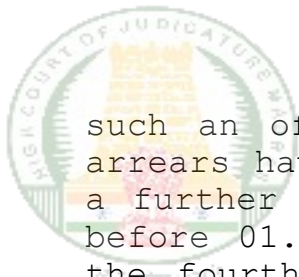
open to the corporation to enhance the rent from 44 Paisa per sq.ft to Rs.6.00/- per sq.ft.

5. The learned Standing counsel would, on the other hand, submit that the corporation was duty bound to refix the rent by taking into account the market reality. The corporation is obliged to give effect to the mandate set out in G.O.Ms.No.147 dated 30.12.2000. I find the said submission of the learned Standing counsel to be sustainable. But then, even according to the Corporation, it proposed to redetermine the ground rent by taking into account the market reality only in the year 2004. Therefore, the redetermination could have been given effect only from the year 2004 and not for the period prior thereto.

6. The learned Senior counsel on instructions states that the members of the petitioner-association would abide by any rate that this Court may fix.

7. He also pointed out that when the impugned order was put to challenge, this Court while entertaining the writ petition and granting interim orders, directed the members of the petitioner-association to pay rent at the rate of Rs.3.00/- per sq.ft. Deriving inspiration from this interim arrangement, I am of the view that the ground rent payable by the petitioner-association can be redetermined as Rs.3.00/- per sq.ft with effect from the year 2004. In the additional typed set of papers filed by the petitioner-association, it is seen that the corporation had fixed the very same rate for some of the nearby properties. I am therefore of the view that fixing Rs.3.00/- per sq.ft for the property in question would definitely meet the ends of justice. Of course as rightly pointed out by the learned Standing counsel, once the ground rent is fixed as Rs.3.00 per sq.ft with effect from 01.04.2004 onwards, the periodical revision at the rate of 15% once in three years as laid down in G.O.Ms.No.147 dated 30.12.2000 will automatically kick in. The learned senior counsel appearing for the petitioner-association has no quarrel on that score. Therefore, the members of the petitioner-association shall pay at the rate of Rs.3.45/- per sq.ft with effect from 01.04.2007 and at the rate of Rs.4.00/- per sq.ft with effect from 01.04.2010 and Rs.4.60/- per sq.ft with effect from 01.04.2013.

8. The petitioner-association gives an undertaking that they would pay at the rate of Rs.6.00/- per sq.ft with effect from 01.04.2016 onwards. Since more than 4½ years have gone by, it is open to the Corporation to redetermine the ground rent payable with effect from 01.04.2021 by taking into account the market rate. On such redetermination, the corporation will offer to the members of the petitioner-association as to whether they are accepting the offer and on that basis, they would continue as lessees of the corporation. The petitioner-association will be entitled to avail



such an offer from the fourth respondent corporation only if the arrears have been cleared by them. The petitioner-association gives a further undertaking that if they do not clear the arrears on or before 01.04.2021, they will vacate and hand over the premises to the fourth respondent corporation. The ground rent for the period from 01.04.2016 to 31.03.2021 will be flat @ Rs.6.00/- per sq.ft.

9. While the respondent corporation will not charge any interest, the members of the petitioner-association will have to pay the statutory dues such as GST. The amounts already paid by the members of the petitioner-association will be given due credit and taken into account.

10. The learned senior counsel appearing for the petitioner-association pointed out that in quite a few cases, the original lessees have passed away and the premises and shops are being run by their legal heirs. In view of the pendency of this litigation, the legal heirs have not been recognised as lessees. He wants this Court to direct the corporation to recognise the legal heirs as lessees once the arrears are wiped out.

11. I am of the view that no exception can be taken to this request. The corporation will act accordingly.

12. This writ petition stands disposed of on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)

pmu

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Secretary to Government,
State of Tamil Nadu,
Dept. of Local Administration,
Chepauk, Chennai - 600 009.

<https://hcservices.ecourts.gov.in/hcservices/>



2. The Secretary,
Municipal Administration & Water Supply
Department,
Secretariat, St. George Fort,
Chennai - 600 009.

3. The Director,
Municipal Administration,
Ezhilagam, Beach Road,
Chennai - 600 005.

4. The Commissioner,
Tiruchirapalli Corporation,
Tiruchirapalli.

+1 CC to M/s.RAJNISH PATHIYIL, Advocate SR-17900.

W.P. (MD) No. 22394 of 2016
23.09.2020

SCR(CO)
CS(30.09.2020) 5P 6C