

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2021

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.1243 of 2021
and
WMP.NO.1393 & 1394 of 2021

A.Samar Singh

... Petitioner

-vs-

1.The Superintendent of Police,
Special Cell Criminal Investigation Department,
Chennai -4

2.The Commandant,
Office of the Commandant-VII Battalion,
Pochampalli, Dharmapuri District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent vide proceedings dated 03.02.2020 in Na.Ka.No.E3/ThaB/5538/2019/Ma.Aa.EN.Thab/114/19 and quash the same and consequently direct the respondents to refund the amount of Rs.1,39,200/- after deducting a sum of Rs.49,200/- being the actual rent for 6 months at the rate of Rs.8,200/- per month from the recovered amount of Rs.1,88,400/-.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondents : Mr.V.Selvakumar,
Additional Government Pleader

O R D E R

The writ petitioner has come forward with the present writ petition, to call for the records of the 1st respondent vide proceedings dated 03.02.2020 in Na.Ka.No.E3/ThaB/5538/2019/Ma.Aa.EN.Thab/114/19 and quash the same and consequently direct the respondents to refund the amount of Rs.1,39,200/- after deducting a sum of Rs.49,200/- being the actual rent for 6 months at the rate of Rs.8200/- per month from the recovered amount of Rs.1,88,400/-.

2. According to the petitioner, he is presently working as

Inspector of police in the 2nd respondent office and he was allotted a Quarters at Chennai and he was staying with his family in the said quarters. It is the grievance of the petitioner that while he was in service, the 1st respondent has passed the impugned order dated 03.02.2020, imposing a penalty of three times rent from June 2019 and directed to pay the amount and that the penalty rent would be deducted from the salary in installments till vacating the premises. In this regard the petitioner has made a representation, however till date, the same has not been considered. Hence the writ petition is filed with the above said prayer.

3. Learned counsel appearing for the petitioner submitted that due to the pandemic situation, he could not vacate the said premises after 23rd March 2020 and that after relaxation of the condition imposed by the Government, the petitioner vacated the quarters on 30.09.2020. The petitioner further submitted that the 1st respondent has recovered a sum of Rs. 31,400/- per month to the extent of 1,88,400/- for 6 months on the basis of three times rent, even during the lock down period as penal rent. He would contend that there shall be an exemption for covid period from April 2020 till 31st December 2020.

4. Mr.P.Selva Kumar, learned counsel appearing for the respondent would contend that though the petitioner was occupying the quarters even prior to covid 19 situation, he is in continuous default in vacating the quarters and imposing penal rent is perfectly valid in accordance with norms. He would further submit that the petitioner has vacated only during December 2020 and not in September 2020 as contended by him and the keys have been handed over to the respondent only in December 2020.

5. Heard the submission made by learned counsel on either side and also perused the material available on record.

6. The fact in the present case is that the petitioner did not vacate the premises for several months, which resulted in imposition of penal rent at three times. There was a dispute with regard to the vacation of the premises by the petitioner, as, according to the petitioner, he had vacated the quarters on 30.09.2020 itself, whereas, the respondents stated that the petitioner vacated the premises only in December 2020. This Court cannot go into the disputed facts and the value cannot be interfered with. However, taking note of the prevalence of Covid-19 situation and considering the fact that the petitioner has restricted his relief only from April, 2020 to 30th September 2020, this Court directs the 1st respondent to accept the original rent for 6 months, namely, from April, 2020 to September, 2020, instead of imposing the penal rent for

aforesaid period and the action of the respondents in imposing 3 times of penal rent for rest of the period is correct and justifiable.

7. With the above direction, this Writ petition is partly ordered accordingly and the balance amount between the parties can be adjusted. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To:

1.The Superintendent of Police,
Special Cell Criminal Investigation Department,
Chennai -4

2.The Commandant,
Office of the Commandant-VII Battalion,
Pochampalli, Dharmapuri District.

+cc to M/s. N.A. Nissar Ahamed, Advocate SR.No.6140/21
+cc to Govt Pleader, SR.No.6085/21

W.P. No.1243 of 2021

SMI (CO)
baf 03/05/2021