

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 19190 of 2011

and

M.P. No. 1 of 2011

The Gandhi Nagar Education Society,
Represented by its Secretary-cum-Treasurer,
No.4, Crescent Avenue Road,
Gandhi Nagar, Adyar,
Chennai - 600 020. Petitioner

Vs

1. State of Tamil Nadu,
Represented by the Secretary to Government,
Municipal Administration and
Water Supplies Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Corporation of Chennai,
Represented by its Commissioner,
Ripon Building, Chennai - 600 003. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari and Mandamus, calling for the records of the second respondent comprised in its letter bearing L&E.D.Na.Ka.No. S.C.1/4147/1999 dated 9.5.2011 issued by the second respondent and quash the same as being arbitrary, illegal, contrary to the terms of the lease deeds dated 4.1.1991 and another lease deed of 1991 (signed on 12.9.1995) entered into between the petitioner and the second respondent and as being passed based on irrelevant materials, including the second respondent's Resolution Nos.500/2004 dated 23.12.2004 (as referred to in Resolution No.312/2006), 312/2006 dated 31.8.2006 and 29/2011 dated 31.1.2011 and consequently directing the second respondent to issue 'No Objection Certificate' as requested for by the petitioner vide its letter dated 31.12.2007 to the District Revenue Officer, Land and Estates Department of the second respondent office for the construction of additional school buildings in the petitioner's leasehold premises without insisting on payment of rent otherwise than at a sum agreed to under the lease deed dated 4.1.1991 and another lease deed of 1991 (signed on 12.9.1995).

For Petitioner : Mr.Satish Parasaran

For R1 : Mr.N.Inbanathan
Additional Government Pleader

For R2 : Ms.Kaarthika Ashok
Senior Standing Counsel

ORDER

The petitioner had taken a property from the respondents Corporation on a 33 years period lease under lease deed dated 04.01.1991. At the time of execution of the lease, the rent that was payable by the petitioner was Rs.100/- per month per ground for a period of 5 years i.e., 05.01.1990 to 04.01.1995.

2. The agreement also provided for escalation of lease rent was to Rs.125/- per month per ground with effect from 05.01.1995 to 04.01.2000. The agreement was however silent for enhancement thereafter. Though the agreement is silent, for the period between 2001 to 2005, the rent was increased to Rs.156/- per month per ground.

3. The petitioner had also accepted the enhancement. However, for the period commencing from 2006 to 2010, the second respondent issued demand notice placing reliance on Resolution No.312/2006 dated 31.08.2006. Challenging the same, the present writ petition has been filed.

4. Heard the learned counsel for the petitioner and the respondents.

5. I have also perused the impugned order and Resolution No.312/2006 dated 31.08.2006. The said resolution applies only for a person over staying beyond the lease period. In this case, the lease is for a period of 33 years and is to expire only on 04.01.2023. Therefore, the said Resolution No.312/2006 dated 31.08.2006 is not applicable to the petitioner.

6. Under these circumstances, the impugned demand notice is liable to be quashed. While quashing the impugned order, I give liberty to the respondents/corporation to sit with the petitioner and negotiate the revised rate of lease rent for enhancing lease amount from Rs.156/- per month per ground as was done on an earlier occasion for a period from 2001 to 2005.

7. The respondents may therefore call upon the petitioner for a personal hearing within a period of 2 weeks from the date

of receipt of a copy of this order. Thereafter, proceed to negotiate and revise the lease rent to be paid by the petitioner.

8. The amount paid by the petitioner during the pendency of the petition shall be adjusted or refunded subject to the outcome of the negotiation. The petitioner shall be bound by resolutions of the respondents that were in force for fixing the lease rent.

9. This Writ Petition is disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Government of Tamil Nadu,
Municipal Administration and
Water Supplies Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai - 600 003.

+1cc to M/s.Karthikaa Ashok, Advocate Sr.14038
+1cc to the Government Pleader Sr.14578

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srg 20/04/2021