



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. NO.8771 OF 2015

AND

M.P.NOS.1 TO 3 OF 2015

Sri Mookambikkai Enterprises
Rep.by its Managing Partner,
K.Indrani
Gandhi Road,
Krishnagiri.

...Petitioner

Vs.

1. The District Collector,
Krishnagiri District,
Ramapuram - 635 115.

2. Krishnagiri Development Corporation Limited,
Rep.by its Managing Director and Project Officer,
Collector's Office Building,
Krishnagiri - 636 705.

... Respondents

Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the 2nd respondent relating to the Impugned Order bearing Na.Ka.No.5215/2005/R9 dated 29.01.2015 issued by the respondents and quash the same in so far as it revises the lease rent by more than 15% from the existing rent and consequently direct the Respondents to revised the rent in accordance to G.O.Ms.No.92 MA & WS in respect of the Apsara Theatre, Anna Gandhi Mani Mandapam Building at Gandhi Road, Krishnagiri.

For Petitioner	: M/s.K.N.Shanthi
For Respondents	: Mr. C.Kathiravan (For R1 & R2) Government Advocate

O R D E R

The order dated 29.01.2015 issued by the Second Respondent extending the lease for a period of 3 years is under challenge in the present Writ Petition. The lease was extended from



01.12.2014 to 30.11.2017 for a period of 3 years on certain conditions stipulated. The monthly rent was fixed as Rs.61,045/- per month (excluding service tax). It is contended that the rent was fixed by enhancing 15% of the existing rent.

WEB COPY

2.The grievance of the writ petitioner is that the enhancement of the rent is exorbitant and the rent is to be revised in accordance with the G.O. Ms. No. 92 dated 03.07.2007.

3.The Petitioner has stated that the Respondents are enhancing the rent in violation of the Government Scheme. Thus, the Petitioner is constrained to move the present writ petition.

4.The subject property belongs to the second respondent / District Rural Development Agency (hereinafter called 'DRDA' for short) and funded by the Central and State Governments.

5.The projects are implemented through the District Collector for the welfare of the people at large in that locality. The assets created, more specifically, the subject property in the present case was originally constructed as a marriage hall in the year 1982 and leased out to the Petitioner. The Petitioner converted the marriage hall as a cinema theatre for better income from and out of the said property. The authorities allowed such conversion and as of now, the building is running as a cinema theatre in the heart of the Krishnagiri Town.

6.The property is situated nearby Government Hospital, which is in prime locality. The lease was originally granted for a period of 10 years from 14.03.1982 to 14.03.1993. It was periodically renewed and rent also was revised.

7.The revision of rent and continuous renewal of lease in favour of the Petitioner for more than 3 decades created certain suspicious circumstances and this Court directed the Project Director, DRDA, Krishnagiri to file a report regarding the present status.

8.Mrs. Malarvizhi, Joint Director /Project Director, DRDA, Krishnagiri present before this court filed a status report stating that the subject building was leased out to one M/s. Mookambigai Enterprises, the writ petitioner from 01.02.1985 by the District Development Corporation, Dharmapuri and the lease was extended from time to time.

9.Further it was leased in favour of the petitioner from 01.12.2001 to 30.11.2011. The lease amount has been fixed as Rs.25,000/- for the first two years and increased year by year and for the ninth and tenth year the lease amount has been fixed as Rs. 36,690/-.



WEB COPY

10. During the lease period, on 02.07.2002, the District Development Corporation Administrative Committee has passed a resolution for the increase of lease amount as Rs.61,045/- for the period from 27.06.2009 to 26.06.2010. The Writ Petitioner filed W.P. No. 39871 of 2002 and this Court passed an order on 23.04.2013

"14. Further, it appears that subsequent to the expiry of the lease agreement, the second respondent and the petitioner herein have entered into an agreement for one year as per which Rs.42,000/- has been fixed as rent and the same has also been paid by the petitioner. Therefore, as per the Lease Agreement dated 14.12.2001 as narrated earlier, if any arrear is due, the second respondent is at liberty to proceed against the petitioner to collect the same. Even if there is any difficulty in case of collecting the arrears of rent during the period from 01.02.1995 to 30.11.2001 as per that agreement within two weeks from the date of receipt of a copy of this order, if the second respondent is permitted to do so, he can take action for eviction proceedings. But, in the event of making the payment, as per the new agreement now entered into between the parties, the petitioner is entitled to continue in the premises and after the expiry of the lease period, it is for the second respondent to decide the act in accordance with law."

Thereafter, the petitioner has applied for extension of lease after 30.11.2011. Learned Government Pleader gave an opinion to decide the issue for extension of lease or renewal of lease period. The lease period had been extended for a period of 3 years from 01.12.2011 to 30.11.2014 and the lease amount was fixed as Rs.42,193/- by enhancing 15% to the existing lease amount of Rs.36,690/- based on the recommendation of the committee comprising the officials and considering the fact that if the contract is terminated on the expiry date of 30.11.2011, the revenue from the asset as property of the DRDA, Krishnagiri will be lost to some more months until it is given to some other person. Since it is an old building, nobody has given application for taking it for rent and a condition has also been imposed that if the verdict in W.P. No. 39871 of 2002 (Lease amount Rs.61,045/-) is favour to Government, the lease amount will be revised.

11. It is stated in the report that the lease was extended considering the fact that if the contract is terminated on the expiry date of 30.11.2011, the revenue from the asset as property of the DRDA Krishnagiri will be in loss to some more months until it is given to some other person. Since, it is an old building, nobody has given application for taking it for rent and a condition has also been imposed that if the verdict



in W.P. No. 39871 of 2002 (Lease amount Rs.61,045/-) is favour to Government, the lease amount will be revised.

12. Pursuant to the orders in W.P. No. 39871 of 2002, the arrears of rent was collected from the Petitioner. The Petitioner made further request to extend the lease for a period of three years by enhancing the rent at 15% to the existing lease amount of Rs.42,193/- ($\text{Rs.42193} \times 15\% = \text{Rs.6,329/-}$). Based on the request, the file has been submitted to the Collector through PA (Accounts) to consider the request of the petitioner.

13. The P.A. (Accounts) has offered his remarks stating that in the year of 2008 itself, the rate has been fixed at Rs.61,045/- and the lease amount may be fixed as Rs.61,045/- since ten years have already been lapsed. The Collector has ordered to constitute a committee comprising the officials (1) The Project Director, (2) The Executive Engineer (RD), (3) The Executive Engineer (P.W.D.), (4) The Revenue Divisional Officer, (5) Personnel Assistant (Accounts) and the committee should recommend the lease amount by following due procedures and the lease amount should not be less than the market rental value of the area, where the building is located.

14. The committee has recommended to fix the monthly lease amount of Rs.61,045/- and to extend the lease period from 01.12.2014 to 30.11.2017. Based on the recommendation of the committee, the lease amount has been fixed as Rs.61,045/- on 29.01.2015. Once again the petitioner has filed W.P. No. 8771 of 2015 questioning the enhancement of lease amount by 15%.

15. The writ petitioner is continuing in possession of the subject property from the year 1982 onwards. The petitioner filed the writ petition on earlier occasion and representations to the authorities concerned and consequently, the lease period was extended. The 2nd respondent made a submission that the lease period was extended for a period of 3 years during the pendency of the present writ petition. The subject property is being used by the petitioner as cinema theatre in the prime locality at Krishnagiri town. It is unfortunate that the competent authority have not initiated any steps to lease out property through open public auction and to ensure the public interest is protected with reference to public properties. Contrarily, the petitioner filed several writ petitions and appeal before the authorities and lease was extended by enhancement of 15% of the existing rent which is considered to be improper as the petitioner is possession of the property from the year 1982 onwards. Unfortunately, even the enhanced rent also not collected and pursuant to the orders of this Court, it was collected. Under these circumstances, the District Collector constituted a committee. However, no open public auction has been conducted. The authorities are now citing the pendency of



the writ petition. Thus, the authorities have not acted diligently and prudently by conducting public auction for the benefit of the public at large. The rent fixed may not be in commensuration with the actual market rental value prevailing in the said prime locality. It is needless to state that public properties are to be dealt with prudently and in the manner known to law, so as to protect the revenue of the State.

16. This Court is of the considered opinion, that the authorities are bound to fix fair rent periodically taken into consideration the prevailing market rental value in the particular locality. As far as the impugned order in the present writ petition dated 29.01.2015 is concerned, the lease period expired in the year 2018 and was further extended for the period of 3 years during the pendency of the writ petition. However, it is not made clear, whether the fair rent applicable has been fixed by the authorities or not.

17. These aspects are to be considered by the competent authorities and the committee constituted by the District Collector, has to fix the fair rent in commensuration with the prevailing market rental value in that locality and recover the same by following the procedures as contemplated. The public properties can never be dealt with the competent authority in a casual manner and in the event of lapse or negligence, the authorities, dealt with the public properties are to be held responsible and culpable for all financial loss. The petitioner is running cinema theatre and earning huge amount and therefore, he is bound to pay fair rent to be fixed by the committee, which is prevailing in the particular area. In view of the fact that the respondents have extended the lease period for 3 years during the pendency of the writ petition, the impugned order dated 29.01.2015 lost its relevance as the period of lease expired with reference to the impugned order.

18. Under these circumstances, the respondents are directed to initiate all appropriate actions to protect the interest of the public property and fix fair rent in commensuration with the prevailing market rental value in that locality. After expiry of the current lease, further actions are to be initiated for public auction, so as to ensure that the public interest is preserved. Even as per the Government policy all such public properties are to be leased out only through open public auction and therefore, the authorities bound to follow the procedures and accordingly deal with the public properties.

19. It is made clear that the differential rental value and arrears of rent or otherwise due, are to be recovered by following the procedures as contemplated.



20. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

WEB COPY

Sd/-
Assistant Registrar (CS IX)

//True Copy//

Sub Assistant Registrar

Maya/Jeni

To

1. The District Collector,
Krishnagiri District,
Ramapuram - 635 115.
2. The Managing Director and Project Officer,
Krishnagiri Development Corporation Limited,
Collector's Office Building,
Krishnagiri - 636 705.

+1CC to Mr.K.N.Shanthi, Advocate, Sr.No.56547

W.P. No.8771 of 2015

SS (CO)
K.RK. (24.11.2021)