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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.13988 of 2020

AND

W.M.P. Nos. 17370 & 17372 of 2020

Asian Bearing Ltd.,
rep. by its Managing Director
Pl.Muthu

...Petitioner

Vs.

1.The Secretary,
Government of Tamil Nadu,
Revenue and Disaster Management
Department,
Secretariat, Chennai-9.

2.The Govt. Additional Chief Secretary,
Government of Tamil Nadu,
Revenue and Disaster Management
Department, Chepauk,
Chennai.

3.The District Collector,
Collectorate,
Krishnagiri-635 001.

4.The District Revenue Officer,
Collectorate,
Krishnagiri - 635 001.

5.The Tahsildar.
Hosur,
Krishnagiri Dt.

6.The Revenue Inspector,
Bagalur, Hosur Taluk,
Krishnagiri Dt.

...Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the proceedings in Government Order in G.O. (Ms.) No.337, dated 18.09.2019 passed by the 2nd respondent herein and quash the same.



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For Petitioner : Mr. T.Mohan for
Mr. G.Muthukumar
For Respondents : Mr.K.M.D.Muhilan,
Government Advocate

O R D E R

(The case has been heard through video conference)

The Writ Petition has been filed challenging the order passed by the 2nd respondent directing the petitioner to pay a sum of Rs. 99,76,671/- towards arrears of lease amount.

2. Brief facts leading to the filing of Writ Petition is as follows :-

The Government poramboke lands admeasuring an extent of 2.45 acres comprised in various survey numbers situated at Jogikalasamanapalli village, Hosur Taluk, Dharmapuri District, has been leased out to the petitioner company by the 4th respondent District Revenue Officer by an order dated 14.11.1998, fixing annual lease amount at the rate of Rs.10,582/-. As per the order of granting lease, the lease amount is revisable once in three years and the petitioner is liable to pay the revised leased amount. According to the petitioner, after obtaining lease, the petitioner company is regularly paying the lease amount as fixed in the order of granting lease. Thereafter, no order has been communicated to them with regard to revision of lease amount. Subsequently, the petitioner company was not in a position to run the industry profitably, they have sent a letter to the respondents seeking for surrendering lease, and the petitioner's representation was pending with the respondents. While so, all of a sudden, the impugned order has been passed by the 2nd respondent stating that, they have revised the lease amount for the period from 01.07.2001 to 30.06.2004 at the rate of Rs.69,759/-, for the period from 01.07.2004 to 30.06.2007 at the rate of Rs.32,669/-, for the period from 01.07.2007 to 30.06.2010 at the rate of Rs.6,80,235/-, for the period from 01.07.2010 to 30.06.2013 at the rate of Rs.6,92,031/-, for the period from 01.07.2013 to 30.06.2016 at the rate of Rs.63,16,998/- and for the period from 01.07.2016 to 30.06.2017 at the rate of Rs.23,07,697/- and consequently, directed the petitioner to pay the arrears of lease amount of Rs.1,01,64,727/-, and after deducting the lease amount paid by the petitioner, he was directed to pay a sum of Rs.99,76,671/-. Challenging the above said order, the present Writ Petition has been filed by the petitioner company.

3. The 5th respondent Tahsildar has filed a counter affidavit stating that, the lease amount has been fixed as per the prevailing land value in the vicinity and the lease amount



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is liable for revision once in three years. It is stated that, as the land value in the vicinity have been increased very high, the lease amount has been periodically revised by the authorities on the prevailing land value. However, the petitioner company was a regular defaulter and they are not paying the lease amount in time and there is huge accumulation of arrears of lease amount, it is in violation of lease conditions stipulated in the order of granting lease. In the above circumstances, the impugned order has been passed directing the petitioner company to pay a sum of Rs.1,01,64,727/- being the arrears of lease amount. It is further stated that, the lease amount is fixed at 2% of land value, 2% of local cess, 10% of local cess charge for every 3 years, 10%, 12%, 14% of land value is to be increased as per the prevailing rules, and based on the land value in the vicinity. Hence, the impugned order has been passed directing them to pay arrears of lease amount and there is no illegality in it. According to the respondents, the order passed by the 2nd respondent is correct and the same is not in violation of principles of natural justice. As of now, the petitioner has not surrendered lease hold property and they are still in possession. Hence, they are liable to pay the arrears of lease amount and there is no illegality in the order passed by the 2nd respondent.

4. Mr.T.Mohan, learned counsel appearing for petitioner would submit that, lease was granted in the year 1998 and the lease amount was fixed at the rate of Rs.10,582/- per year. Even though the lease amount is revisable once in three years, no order has been passed by the authorities revising the lease amount. However, the petitioner is paying lease amount regularly as per the admitted amount. Now, all of sudden, the 2nd respondent had revised the lease amount from the year 2001 to 2017, arbitrarily without conducting any enquiry whatsoever and asked to pay huge amount as arrears of lease amount. According to learned counsel, the order passed by the 2nd respondent is in violation of principles of natural justice and the 2nd respondent has no jurisdiction to revise the lease amount retrospectively for the period of 17 years and to direct the petitioner to pay the same. Therefore, the impugned order is liable to be set aside.

5. Mr. K.M.D.Muhilan, learned Government Advocate appearing for respondents would content that, as per the lease agreement entered into between the parties, it is agreed that the lease amount is revisable once in three years as per the prevailing rules, land value, and as per the Board standing order, the lease amount has been revised once in three years. Now, it is not open to the petitioner to contradict with the same. Admittedly, the petitioner is in possession of Government poramboke lands, they are liable to pay the lease amount as per



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the lease agreement. The lease amount has been revised as per the terms of contract, it is not necessary to conduct any enquiry for fixing the revised lease amount. The impugned order has been passed in accordance with the agreement and there is no necessity to conduct enquiry. The learned counsel further submitted that, as the lease amount has been fixed as per the prevailing land value in the vicinity, apart from other local cess and cess charge, the 2nd respondent had rightly fixed the lease amount and there is no illegality in it. The learned Government Advocate relying upon a copy of letter dated 27.04.2004, and submitted that, as the lease amount is revised once in three years regularly by the authorities, and the petitioner is liable to pay the arrears of lease amount.

6. Heard rival submissions made by learned counsel appearing for petitioner as well as learned Government Advocate appearing for respondents and perused the records.

7. On perusal of the impugned order passed by the 2nd respondent, it could be seen that, the 2nd respondent had revised the lease amount from the year 2001 to 2017 at one stroke, for every three years period and directed the petitioner company to pay arrears of lease amount more than Rs.1 crore. Apart from that, it could also be seen that, before passing the impugned order, there is no reference in the impugned order to show that the lease amount was revised by the authorities once in three years, and it was communicated to the petitioner. Apart from that, there is no reference in the order on what basis, the revision was made. The counter affidavit filed by the respondents also silent on that aspect. Considering all those circumstances, an opportunity ought to have been given to the petitioner with regard to the revision of lease amount, and admittedly, without conducting any enquiry and without issuing any notice to the petitioner, the impugned order has been passed, which is in violation of principles of natural justice.

8. Considering the facts and circumstances of this case, without going to the merits of the case, as the impugned order has been passed without conducting enquiry whatsoever and in violation of principles of natural justice, I am inclined to interfere with the order passed by the 2nd respondent, and set aside the same solely on the ground of violation of principles of natural justice, and this matter is remanded back to the 2nd respondent, and the 2nd respondent is directed to issue notice to the petitioner and conduct an enquiry and pass suitable orders after hearing the petitioner. The above exercise shall be completed within a period of four months from the date of receipt of copy of this order. Until the order passed by the 2nd respondent, the respondents are directed not to take any coercive action against the petitioner for recovery of lease amount. Accordingly, this Writ Petition stands disposed of. No



costs. Consequently, connected Writ Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To

- 1.The Secretary,
Government of Tamil Nadu,
Revenue and Disaster Management
Department, Secretariat, Chennai-9.
- 2.The Govt. Additional Chief Secretary,
Government of Tamil Nadu,
Revenue and Disaster Management
Department, Chepauk, Chennai.
- 3.The District Collector,
Collectorate, Krishnagiri-635 001.
- 4.The District Revenue Officer,
Collectorate, Krishnagiri - 635 001.
- 5.The Tahsildar.
Hosur, Krishnagiri Dt.
- 6.The Revenue Inspector,
Bagalur, Hosur Taluk,
Krishnagiri Dt.

+3ccs to Mr.G.Muhukumar, Advocate SR.No.35689

+1cc to the Government Pleader SR.No.36293

W.P.No.13988 of 2020

SMI(CO)
RVM(26/08/2021)