

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WP No.17688 of 2021 &
W.M.P. 18850 of 2021

Balasubramanian

.... Petitioner

-Vs-

1. The Commissioner
Erode Corporation,
Erode.

2. Additional Chief Secretary to the Government
Municipal Administration and Water Supply Department (MA IV),
Fort St. George,
Chennai.

.... Respondents

Prayer :- Writ Petition 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 herein in Na. Ka. No. A1 / 3744 / 2020 dated 30.06.2021 and quash the same and consequently forbear the Respondents from demanding rent from the Petitioner for Shop No. AN-12/2 New Bus Stand Complex Erode from 07.05.2021 to 03.07.2021

For Petitioner : Mr. Bhagavathkrishna

For Respondents : Mr. M.Rajamathivanan
Standing counsel for R1

Mr. U.Baranidharan
Government Advocate for R2

ORDER

This writ petition was filed challenging the proceedings of the first respondent dated 30.06.2021 and for a consequential direction forbearing the respondents from demanding the rent from the petitioner from 07.05.2021 to 03.07.2021.

2. When the matter was taken up for admission on 24.08.2021, this Court passed the following order :-

Mr.Raja Mathivanan, learned standing counsel, takes notice for the first respondent.

2. Mr.U.Baranitharan, learned Government Advocate, takes notice for the 2nd respondent.

3. It is seen from the records that the petitioner and other lessees had given an undertaking before the Hon'ble Supreme Court that they will vacate and hand over the premises by 31.08.2021 to the first respondent. The grievance of the

petitioner is that the first respondent is insisting for the payment of the lease amount without taking into consideration the lockdown period and the Government orders that were issued granting waiver of rent.

4. Taking into consideration the facts and circumstances of the case, the demand made for the payment of rent shall be kept in abeyance until further orders are passed by this Court subject to the condition that the petitioner vacates and hands over the possession of the shop to the first respondent on or before 31.08.2021 as per the orders of the Hon'ble Supreme Court.

5. Post this case under the caption, 'for orders' on 08.09.2021.

3. When the matter was taken up for hearing today, the learned counsel for the petitioner submitted that as per the directions issued by this Court, the petitioner has vacated and handed over the shop to the respondent corporation. This fact was also confirmed by the learned standing counsel appearing on behalf of the respondent corporation. Insofar as the issue with regard to the waiver of the rent is concerned, such a plea raised by the petitioner cannot be entertained by

this Court, in view of the undertaking affidavit that was filed by the petitioner before Hon'ble Supreme Court. The relevant portion in the undertaking affidavit is extracted hereunder:-

4.I hereby declare that as on date that there no arrears of rent and that I undertake to pay arrears of rent if any to the respondent.

5. It is clear from the above that the petitioner and others had clearly undertaken to pay the arrears of rent to the respondent and this was taken into consideration by the Hon'ble Supreme Court while granting time to the petitioner till 31.08.2021 to vacate and hand over the premises. Under such circumstances, granting waiver of payment of rent to the petitioner will amount to going against the undertaking given before the Hon'ble Supreme Court.

6. In view of the above, no further orders can be passed in this writ petition and accordingly this writ petition is dismissed. No costs.

Consequently, the connected miscellaneous petition is closed.

08.09.2021

sha/rka



WEB COPY

N.ANAND VENKATESH, J.

sha/rka

To

1. The Commissioner
Erode Corporation,
Erode.
2. Additional Chief Secretary to the Government
Municipal Administration and Water Supply Department (MA IV),
Fort St. George,
Chennai.

WP No.17688 of 2021 &
W.M.P. 18850 of 2021



WEB COPY 08.09.2021