



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WEB COPY

W.P. (MD)No.4629 of 2021
and WMP (MD) No.3737/2021
(Through Video Conferencing)

The Branch Manager
Union Bank of India
Kodaikanal Branch
Municipal Shopping Complex,
Old Bus Stand
Anna Salai
Kodaikanal,
Dindigul District.

... Petitioner

Vs.

The Commissioner
Kodaikanal Municipality
Dindigul District.

... Respondent

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records pertaining to the impugned (ஐபிடி அறிவிப்பு) attachment Notice dated 30.11.2020 passed by the respondent Municipality in Na.Ka.No.2840/1998/A3 and quash the same as illegal.

For Petitioner :Mr.VS.Karthi

For Respondent :Mr.L.P.Mauriya

ORDER

The order passed by this Court on 22.06.2021 substantially deals with the issue that is involved in the present writ petition and hence, the same is extracted hereunder:-

"This Court heard the submissions made on either side.

2.The subject matter of challenge in this writ petition is the impugned notice issued by the respondents dated 30.11.2020, wherein, the petitioner bank has been directed to pay the arrears of rent of a sum of Rs.23,23,535/-, failing which, proceedings will be initiated under the Tamil Nadu District Municipalities Act, 1920.

3.The petitioner bank entered into a lease agreement with the respondent Municipality in the year 2014 and the



same was reduced to writing. The lease was for a period of three years up to the year 2017. The monthly rent payable was also fixed under the agreement. The petitioner bank made a request to the respondent seeking for extension of the lease and the petitioner bank made an offer to increase the existing rent by 15%. This request made by the petitioner bank was rejected by the respondent through their letter dated 19.12.2017.

4. That apart, the respondent issued a notice dated 13.11.2017 enhancing the rent with effect from 01.10.2016. There are two portions of the property, which was leased and the ground floor portion was put to use as ATM and the first floor was utilised for bank operations and the lease amount was fixed accordingly. By virtue of the notice dated 13.11.2017, rent for the bank was increased to Rs.74,520/- and the rent for the ATM was increased to Rs.7,590/- with effect from 01.10.2016.

5. Admittedly, the petitioner bank was in possession of the property till 28.02.2019 and thereafter they have vacated and handed over the property to the respondent. The petitioner has not questioned the notice issued by the respondent on 13.11.2017. That apart, the respondent has also rejected the request made by the petitioner to continue the lease for a further period by paying an enhanced rent of 15% from the existing rent. Therefore, the petitioner cannot take a stand that they properly paid the rent till the premises was vacated on 28.02.2019.

6. In view of the above, the bank has to necessarily pay the rent with effect from 01.10.2016 till 28.02.2019 at the rate that was indicated in the notice dated 13.11.2017. The learned counsel appearing on either side shall prepare a calculation memo and from the total amount that is arrived at the rent already paid by the petitioner bank and the advance amount that lies with the respondent shall be deducted and if there is any balance amount payable, the same can be directed to be paid by the petitioner. This is the only way in which the rights of both the parties can be balanced.

7. The learned counsel for the petitioner seeks time to take instructions. Post this case on **29.06.2021** at 2.15 p.m. under the caption 'for orders'."

2. When the matter was taken up for hearing on 29.06.2021, this Court, after hearing both sides, expressed its mind that the rents insofar as the period during which the lease agreement was in force, will be covered only by the rents indicated in the agreement and the respondent Municipality cannot unilaterally increase the rent during



for the respondent Municipality that the impugned notice dated 30.11.2020 had quantified the total amount payable by the petitioner bank as Rs.23,23,535/- and therefore, this notice will be taken as the basis and the calculation will be done in accordance with the direction given by this Court. This Court made it clear that the respondent Municipality cannot charge any penalty or GST on the total rent that is due and payable by the petitioner bank after this Court arrives at the final figure.

3. This Court directed the learned counsel for the petitioner bank to prepare a calculation memo by calculating the rents in accordance with the notice dated 13.11.2017 from the date of the expiry of the lease till the date on which the premises was vacated and handed over to the Municipality. This Court further directed the actual amount that was paid as rent during this period to be deducted. That apart this Court also directed the advance amount that was paid to the respondent Municipality to be deducted and thereby arrive at the grand total that is due and payable by the petitioner bank to the respondent Municipality.

4. Accordingly, when the matter was taken up for hearing today, a work sheet has been submitted before this Court and for proper appreciation, the same is extracted hereunder:

WORK SHEET NO.3

FIRST FLOOR BANK PREMISES:-

From 01/10/2016 (lease expiry)

till 28/02/2019 for 29 months

@ Rs.74,520/- =Rs.21,61,080.00

(-)

Paid Rent at Rs.19440.75

=Rs. 5,66,952.75

Total

=Rs.1594127.25

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Less Advance amount paid

(On 29/10/2001 Rs.57,990/- = Rs.15,36,137.25

GROUND FLOOR ATM PREMISES:-

From 01/01/2017 (lease expiry)

till 28/02/2019 for 26 months

@ Rs.7590/- =Rs.197340.00

(-)

Paid rent at Rs.2096.45

=Rs. 54533.70

Total

=Rs.142807.00

Less advance amount paid

= Rs.138307.00

(on March 2010 Rs.4500/-)

GRAND TOTAL RS.16,74,444.25



5. It is clear from the above that the petitioner bank has to pay a total sum of Rs.16,74,444.25/- to the respondent Municipality. This amount should not carry any penalty or GST, since the impugned notice issued by the respondent became a subject matter of challenge before this Court and the above amount was filed based on the orders passed by this Court. Therefore, the petitioner bank is liable to pay only an amount of Rs.16,74,444.25/- to the respondent Municipality.

6. Since both the parties in this writ petition are public bodies, this Court wanted to ensure that no loss is caused to either side and the respondent Municipality receives the actual amount that is due and payable by the petitioner bank. The order passed by this Court in this writ petition will strike a balance between the rights of the petitioner and the respondent Municipality and it will prejudice none.

7. In view of the above discussion, the impugned notice issued by the respondent on 30.11.2020 is partly modified and the petitioner is directed to pay a sum of Rs.16,74,444.25/- to the respondent Municipality on or before 01.10.2021.

8. This writ petition is disposed of accordingly. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The Commissioner
Kodaikanal Municipality
Dindigul District.



W.P.(MD)No.4629 of 2021

+1 CC to MR.V.S.KARTHI, Advocate (SR-21136[F] dated 05/07/2021)

+1 CC to M/s.L.P.MOURYA, Advocate (SR-21133[F] dated 05/07/2021)

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