



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.[MD]No.15042 of 2021

and

W.M.P.[MD]No.11986 of 2021

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S.Hakkimullah

... Petitioner

Vs.

1.The Managing Director,  
Tamil Nadu Small Industries Development  
Corporation Limited (TANSIDCO),  
Thiru.Vi.Ka. Industrial Estate,  
Guindy, Chennai - 600 032.

2.The Estate Officer / Branch Manager,  
Tamil Nadu Small Industries Development,  
Corporation Limited (TANSIDCO),  
SIDCO Industrial Estate,  
Ariyamangalam, Trichy - 620 010.

3.The Estate Officer,  
Pudukkottai (SIPCOT) Estate,  
Thanjavur Road,  
Pudukkottai.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned notice issued by the third respondent in Proc.No.119/A/2020, dated 06.08.2021 and quash the same.

For Petitioner : Mrs.J.Anandhavalli

For Respondents : Mr.T.Sakthikumaran

Standing Counsel

### **O R D E R**

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The prayer sought for herein is for a Writ of Certiorari, calling for the records pertaining to the impugned notice issued by the third respondent in Proc.No.119/A/2020, dated 06.08.2021 and quash the same.

2. The petitioner claims to have been running a business called M.A.K. Oil Mills and he was an allottee of a plot by the first respondent in Pudukkottai District in the year 2003, on a monthly rental basis of Rs.5000/- and claimed to have been paying the rent, regularly. He further claimed that, since there had been a set back in his business, there occurred a default in his rent and in this



regard, the respondent seems to have issued a notice, calling upon the petitioner to pay the arrears of rent, in which, they have also mentioned in proceedings dated 28.11.2013 that, they have cancelled the allotment order. Pursuant to the said cancellation order, the second respondent had sent an eviction notice to the petitioner. At that juncture, the petitioner seems to have undertaken to pay the arrears of rent amount. Thereafter, by demand draft on 20.03.2014, the petitioner had paid the arrears to the extent of Rs.6,64,500/-.

3. Again, the same thing continued, where the petitioner became a defaulter again and this time also, eviction notice dated 06.02.2016 was issued and the same was challenged by the petitioner in W.P.[MD]No.3573 of 2015, where a conditional order had been passed, that the petitioner shall pay the entire amount within the time granted by the Court. The said writ petition, subsequently, had been withdrawn by the petitioner.

4. Thereafter, in the year 2019, again a notice was issued calling upon the petitioner to pay the arrears, failing which, the property allotted to the petitioner shall be handed over. The said notice was again challenged by the petitioner in this Court in W.P. [MD]No.15810 of 2019 and the said writ petition is pending. In that writ petition also, it seems that there had been a conditional order passed, granting stay that the amount should be paid as stipulated in the said conditional order. Even that conditional order has not been complied with by the petitioner.

5. In the above stated circumstances, the third respondent has passed the impugned order dated 06.08.2021, calling upon the petitioner to vacate and handover possession, otherwise the petitioner will be evicted from the property on 24.08.2021, at 11.30 a.m. Only at that juncture, this writ petition has been filed, challenging the said notice dated 06.08.2021, in order to avoid the forcible eviction undertaken by the respondent against the petitioner.

6. When this writ petition came up for hearing, at the admission stage, on 23.08.2021, though this Court was very reluctant to interfere with the order impugned, Mrs.J.Anandhavalli, learned Counsel for the petitioner has made a fervent appeal and request to this Court that in order to show the *bona fide* on the part of the petitioner, any conditional order can be passed and based on which, the order impugned can be stayed. Based on the said submission made by the learned Counsel for the petitioner and having taken into account the factual situation and in order to give a final chance to the petitioner to show his *bona fide*, this Court by interim order dated 23.08.2021, has passed the following order:

"Heard Mrs.J.Anandhavalli, learned counsel  
appearing for the petitioner and Mr.T.Sakthikumaran,  
learned Standing Counsel appearing for the respondents.



2.The learned Standing Counsel appearing for the respondents, on instructions, would submit that, as on date, the due payable by the petitioner is Rs.11,65,141/- ,and since such a huge amount of due is there, the petitioner cannot be shown any sympathy as already a similar plea has been raised by filing an earlier writ petition, where also, after obtaining conditional interim order, the same has not been complied with, admittedly, therefore, such kind of equity cannot be extended to the petitioner, he contended.

3.However, Mrs.J.Anandhavalli, learned counsel appearing for the petitioner has submitted that, it is a very small business run by the petitioner, and there has been a continuous set back in his family circumstances, and due to COVID-19 Pandemic, the petitioner could not run the industry properly, and mobilise the funds to pay the rental arrears payable to the respondent, however, though in the earlier occasion, conditional orders of this Court has not been complied with, this time, the petitioner, in order to show the bonafide, wants to pay atleast 50% of the present due in three installments, and in this regard, the learned counsel for the petitioner has submitted that, within a period of seven(7) days, two lakhs rupees would be paid, and in the next 30 days, another two lakhs rupees would be paid, and in the next 30 days, another two lakhs rupees would be paid, totally Rs.6,00,000/-(Rupees Six lakhs only) would be paid, within a period of sixty seven(67) days, and depending upon the progress to be made, in this regard, by the petitioner, to show his bonafide, the further course of action can be made in this regard, she contended.

4.I have considered the said submissions made by the learned counsel for the parties, and having taken into account, the aforesaid submissions, this Court is inclined to pass the following interim order:

"that there shall be an interim order of stay of the impugned order, on condition that the petitioner shall deposit a sum of Rs.2,00,000/- (Rupees Two lakhs only) at the account of the respondent within seven(7) days from today, and thereafter, pay another two lakhs rupees within thirty(30) days, thereafter, further two lakhs rupees shall be paid in the next thirty(30) days."



5. In order to verify the compliance of the very first payment of Rs.2,00,000/- (Rupees Two lakhs only) within seven(7) days from today, this Court wants to take up the matter again for hearing, after a week's time.

6. Post the matter on 02.09.2021."

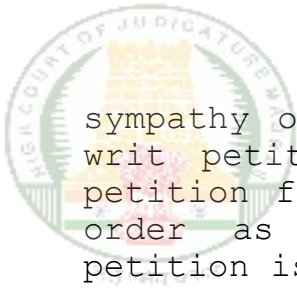
7. This is how, the matter has been listed today [on 02.09.2021], just to verify the compliance on the part of the petitioner in making the first payment of Rs.2,00,000/- within seven [7] days.

8. However, today [on 02.09.2021], when the case is taken up for hearing, the learned Counsel for the petitioner, on instructions, would submit that, when the petitioner went to the office of the third respondent today, to make a part payment of the first instalment, ie., Rs.60,000/-, the same was refused to be received by the third respondent and if such amount is directed to be received and further time is given, the first instalment would be completely paid.

9. But, this Court is not impressed with the said stand taken by the petitioner as projected by the learned Counsel for the petitioner.

10. It is not the case of the petitioner that, first time the petitioner is not able to comply with the conditional order passed by this Court. This is the *modus operandi* adopted by the petitioner, as this is the third writ petition and earlier on two occasions also, when conditional orders were passed, at least, the petitioner could have complied with the last such conditional order. Therefore, the writ petition in W.P.[MD]No.15810 of 2019, even though, the said order is pending, has not given any desired result on the part of the petitioner, because of the self-contravention on the part of the petitioner in fulfilling the conditional order passed by this Court from time to time. However, the reason why this Court has given a longer rope to the petitioner is that, the due that was payable by the petitioner was Rs.11,65,141/-. A lenient time schedule has been given whereby, only Rs.6,00,000/- amount was directed to be paid by way of instalment, out of which the first instalment of Rs.2,00,000/- should be paid within seven [7] days. However, the first instalment itself has not been paid. When that being the position, there is absolutely no scope to believe the petitioner to comply with the conditional order and this would be fortified because of the track records as has been narrated above.

11. In view of all the above reasons, this Court has no



sympathy on the petitioner and therefore, the plea raised in this writ petition is liable to be rejected. Accordingly, this writ petition fails. Hence, it is dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

**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

- 1.The Managing Director,  
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- 3.The Estate Officer,  
Pudukkottai (SIPCOT) Estate,  
Thanjavur Road, Pudukkottai.

+1 CC to M/s.J.ANANDHAVALI, Advocate ( SR-28017[F] dated 02/09/2021 )

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate ( SR-28156[F] dated 03/09/2021 )

**W.P.[MD]No.15042 of 2021**  
**02.09.2021**

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