IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.10.2022**

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.No.26258 of 2015
&
W.M.P.No.19399 of 2019

UE Development India Pvt Ltd
A company incorporated under the provisions
of the Companies Act, 1956 and
having its office at
Building No.116, No.702,
7th floor
Pride Hulkul, Lalbagh Road
Bangalore-560027
rep by its Chief Executive Officer
Ms.Hayati Binti Tamzir ... Petitioner

Vs.

1. State of Tamil Nadu
   Represented by its Principal Secretary
   Department of Revenue Secretariat
   Chennai- 9.

2 District Collector
Collectorate Buildings
Kancheepuram-631501.

3 Revenue Divisional Officer
Madurantakam Taluk
Kancheepuram District.

4 The Tahsildar
Madurantakam
Kancheepuram District. ... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus to call for the records for the records of the Respondents relating to Letter No. RC No.3454/R 2002/B2 dated 16.03.2015 issued by the Tahsildar Madurantakam Taluk and all other demands made prior to or thereafter and quash the same and consequently direct the Respondents to accept the lease rentals already paid by the Petitioner as sufficient and complete rental for the said Property.

For Petitioner : Mr.Krishna Ravindran

For Respondents : Mr.D.Gopal, Govt.Advocate

O R D E R

This Writ Petition has been filed challenging the impugned order issued by the 4th respondent.

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

Writ petitioner in order execute the construction of the National Highway for the Tambaram to Tindivanam stretch was in need of the property to store the materials. Accordingly, an extent of 7.33.0 hectares granted to the petitioner by the Government on the annual rent. In G.O.Ms.No.11 dated 08.01.2008 the Government has passed the G.O taking into consideration of the recommendation of the District Collector, Kancheepumram and the Special Commissioner and Commissioner of Land Administration fixing the annual rent for the first three years at the rate of Rs.1,87,313/- i.e 14% p.a on the land cost of Rs.13,37,952/- subject to revision once in three years.

3. It is the contention of the petitioner that the above amount has been paid regularly. However, after three years of lease no revision has been made by the Government. However, writ petitioner has continued to pay the original lease amount as fixed by the G.O which is also paid. When the matter stood thus, suddenly the 4th respondent issued an impugned order claiming a sum of Rs.1,08,86,352/- as arrears as per the A.G's Audit slip No.18 dated 18.11.2013 in respect of the lease amount.

4. The same has been challenged on the ground that no opportunity has been given and even the guideline value of the very adjacent properties are very low at the relevant point of time. The 4th respondent has also not

considered any of the document to fix such a value. The value has been fixed by the 4th respondent for the remaining three years lease period i.e 2006 to 2009 Rs.53,21,400/-. Hence, the same is sought to be quashed in this Writ Petition.

5. The counter has been filed by the 4th respondent admitting the lease and fixing the annual lease amount at the rate of Rs.1,87,313/- for the first three years. However, thereafter as per the market value the lease amount has been fixed at the rate of Rs.17,73,800/- per annum and the above fixation has been done mainly on the basis of value of the property. Besides the Audit objection raised by the AG's office. As the rent has not been paid periodically, the interest is also calculated. According to the respondents the lease rent for the three years i.e from 2006-2009 comes around Rs.53,21,400/- and again the lease amount has been claimed for the period 04.03.2009 to 03.03.2012 at the rate of Rs. 59,59,968/- and for 04.03.2012 to 03.03.2013 at a sum of Rs. 22,24,852/-. Thereby a total sum of Rs.1,35,36,220/- is claimed by the respondents. According to them demand notice was served to the petitioner, audit also raised objection as the amount is not been paid the action will be taken under the Revenue Recovery Act.

6. According to them, the market value at the relevant point of time is Rs.7000/- per cent. Therefore, the entire area the market value will come around Rs.1,26,70,000/- applying the 14% as per G.O. Rs.53,21,400/- for the period of three years amount has been arrived. Hence, objected the Writ Petition.

7. Learned counsel for the petitioner would submit that the Tahsildar has fixed the lease unilaterally without any assessment and further he has no right whatsoever to revise the lease at the most the only the Government has the power to revise the lease as per the G.O, wherein which lease was originally granted to the petitioner. The Tahsildar has adopted such value only on the basis of some audit objection raised by the AG's office. To satisfy the auditing authority the order has been passed without following any procedure in fixing either guide line value or market value. It is his further contention that the adjacent lands the guide line value or market value are very low at the relevant point of time. Therefore, fixing the value at the rate of Rs.7000/- per cent as a market value without consideration any of the documents and materials is not maintainable. Therefore, he would submit that the order issued by the Tahsildar is liable to be set aside.

8. The learned Government Advocate appearing for the respondents would submit that the audit objection has clearly raised the delay in payment also the value has not been adopted properly. According to them the market value has been properly calculated and 14% is applied as per G.O. Hence, it is the contention that the rents has been calculated upto the year 2013. Only for the recovery of the rent the impugned notice has been issued. Therefore, seeks to dismiss the Writ Petition.

9. I have perused the entire materials.

10. The petitioner company was granted a lease by G.O.Ms.11 for an extent of 7.33.0 hectares,which is classified as stone quarry poramboke as the petitioner's company required the land for stacking of materials for construction activities sought for lease. The lease has been granted, the G.O issued in this regard reads as follows:

The G.O has been issued after considering the recommendation by the District Collector, Kancheepuram and the Special Commissioner and Commissioner of Land Administration fixing the annual lease rent of 14% p.a on the market value or guideline value,whichever is higher is fixed subject to revision once in three years.

11. Accordingly, a sum of Rs. 1,87,313/- p.a i.e 14% per annum was fixed as annual rent for first three years 2003-2006. Thereafter, it appears that no revision whatsoever made by the Government. However, the petitioner voluntarily paid a sum of Rs.6,51,850/- calculating the same annual rent fixed in the earlier G.O for subsequent three years by letter dated 13.12.2008. The chalan is also filed in this regard. The communication dated 25.02.2009, also indicate that the chalan numbers to prove their payments. Be that as it may, when the matter stood thus, the Tahsildar has fixed the rent for three years 2006-2009 at the rate of Rs.53,21,400/- for entire three years. According to him the market value to be taken as Rs.7000/- per cent and fixed the above rent. The order dated 05.02.2010 has been passed for the first time mainly on the basis of the a direction from the Accountant General to collect the lease rent of Rs.53,21,400/- from the company. As the audit has raised certain objections the order dated 05.02.2010 came to be passed by the Tahsildar as if he is fixing the annual rental value on the basis of market value. The above order does not even refer what are the documents relied upon to arrive the market value or whether the guide line value has

been properly taken note of and market value is more than the guide line value. The order revising the lease amount from Rs.1,87,313/- has been enhanced to Rs.17,73,800/- mechanically without any materials and it is more than ten times of the original lease amount fixed by the Government in the G.O. The very order itself merely indicate that it is only the result of some objections pointed by the Accountant General and nothing else. Thereafter, the impugned order has been passed.

12. Even after the commencement of the lease the Government has not revised the lease as per the G.O. Despite the fact that they are entitled to do the same. However, they have not done so. The fact remains that the petitioner has paid the same rent subsequently also, which is also received by the Government. However, no revision has been made. Whereas the 4th respondent by order dated 05.02.2010 as passed an order mainly on the basis of the audit objections followed by impugned notice for recovery of the amount.

13. Therefore, this Court is of the view that if at all any revision has to be made and rent has to be collected on the basis of the market value or

guide line value whichever is higher at the rate of 14% from 2006-2009 or subsequent years, such order has to be passed only by the Government taking note of all the recommendations either by the District Collector or Special Commissioner and Commissioner of Land Administration and not by way of order by the Tahsildar that too based on the some audit objections.

14. In such view of the matter, the order impugned is liable to be set aside and the same is set aside. It is well open to the 1st respondent to revise the lease amount as per G.O.Ms.No.11 dated 08.01.2008 adopting either guide line value or market value i.e prevailing in the year 2006 and subsequent years.

15. After fixing the lease they are entitled to recover the same. With the above observations, the Writ Petition is allowed. Consequently, connected Writ Miscellaneous Petition is closed.

16. It is also stated by the learned counsel for the petitioner that under protest so far they have paid a sum of Rs.33,74,750/- as lease rent. Apart from that as per the direction of this Court a sum of Rs.25,00,000/- also been

deposited in the year 2015 while passing an interim order. It is ordered to be returned to the petitioner with interest and the lease rent amount already paid to the Government shall be adjusted after revising the rent as per G.O.Ms.No.11 and in the event if excess amount to be paid even after revision by the petitioner, the same shall be recovered.

18.10.2022

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Internet:Yes
Speaking/Non speaking order

To
1. The Principal Secretary
State of Tamil Nadu
Department of Revenue
Secretariat, Chennai- 9.

2 District Collector
Collectorate Buildings
Kancheepuram-631501.

3 Revenue Divisional Officer
Madurantakam Taluk
Kancheepuram District.

4 The Tahsildar
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N. SATHISH KUMAR, J.

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