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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.8112 & 8114 of 2022 and
WMP.Nos.8097 & 8098 of 2022

V.Indrani ... Petitioner in WP.8112/2022

H.Vijayanth ... Petitioner in WP.8114/2022

Vs

1.The Member Secretary,
Tamil Nadu Sports Development Authority,
116-A, E.V.R.Periyar High Road,
Nehru Park, Chennai-600 030.

2.The Regional Senior Manager,
Development of Sports & Youth Welfare,
Sports Development Authority of Tamil Nadu,
Coimbatore Region,
Nehru Stadium Complex,
Coimbatore - 641 018.

... Respondents in both WPs

PRAYER in WP.No.8112 of 2022: Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, for bearing the respondents from disturbing the petitioner's peaceful possession and conduct of business from shop Nos.27 & 28 Nehru Stadium Complex, Coimbatore - 641 018 either by coercive sealing of shop or evicting the petitioner in any other manner without resorting to due process of law.

PRAYER in WP.No.8114 of 2022: Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, to direct the respondents from disturbing the petitioner's peaceful possession and conduct of business from shop Nos.41 & E-8 Upstairs of Entrance Bay No.8, Nehru Stadium Complex, Coimbatore - 641 018 either by coercive sealing of shop or evicting the petitioner in any other manner without resorting to due process of law.

(In both WPs)

For Petitioners : Mr.D.Ferdinand for
M/s.BFS Legal

For Respondents : Mr.D.Ravichander (for R1 to R4)
Special Government Pleader



COMMON ORDER

Mr.D.Ravichander, learned Special Government Pleader accepts notice for the respondents and would concur with the submissions of Mr.Ferdinand, learned counsel appearing for the petitioners that the order passed by this Court on 29.12.2021 in WP.Nos.28166 of 2021 and batch would apply in the present matters as well. The narration of facts as well as the directions issued in order dated 29.12.2021 would apply on all fours to the petitioners as well.

2. Learned counsel for the petitioner would submit that even in this case some payment have been made by the petitioners towards the arrears, in which case the same will taken into account to compute the arrears payable. Barring this modification, order dated 29.12.2021, which is extracted below in full is held applicable in these cases as well:

'.....

2. The prayer of the petitioners is for the issuance of writs of mandamus forbearing the respondents from disturbing the petitioners' peaceful possession and conduct of business from various shops located in Nehru Stadium Complex in Coimbatore, owned and managed by the Tamil Nadu Sports Development Authority ('shops'/'shops in question').

3. The petitioners have received show cause notices dated 20.12.2021, computing the arrears of rent admittedly payable by them to the first respondent in respect of their occupation of the shops. Thus, and in light of the admitted defaults of the petitioners in remittance of rents, mandamus of the nature sought for is not liable to be granted. These writ petitions are thus dismissed on this score.

4. However, since both learned counsel have advanced detailed submissions on the merits of the matter, that is, in regard to the computation of the rent itself the following paragraphs are penned as a means of resolving the on-going dispute. The petitioners had entered into lease agreements dated 01.04.2011 with the second respondent for the lease of the shops in question providing for monthly rentals. An escalation of rent was also provided for in clause 4 that adopts the basis of the escalation as 'prevailing rent', that is to mean, rent fixed as per the agreement.



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5. Thus, the terms qua the parties provided for the enhancement of rent by 15% over the 'prevailing rent' once in three years. The petitioners have been permitted to occupy the shops till date despite admitted defaults in payment of the enhanced rentals as they have been only remitting the rents as per the original agreement dated 01.04.2011.

6. The difference in opinion arises from the manner by which the parties state that the enhancement of rent is to be computed. While agreement of lease dated 01.04.2011 states that the enhancement has to be computed on 'prevailing rent' which is the rent as per the agreement, the respondents rely on two internal communications dated 23.03.2011 and 29.07.2015 which appear to have changed the basis of rent from 'prevailing rent' to PWD rates. Copies of the aforesaid communications do not appear to have been supplied to the petitioners.

7. While the respondents are at full liberty to decide upon and fix the terms of the lease agreement, any change in terms must be put to the petitioners prior to such change being effected. Thus, let the copies of the aforesaid communications be supplied to the petitioners forthwith.

8. As on date, the petitioners are defaulters. There is a direction to them to pay the enhanced lease rentals computed for the entirety of the period when they were in occupation of the shops, computed on the basis of the lease agreement being 'prevailing rent', on or before 12.01.2022. Upon condition that the petitioners comply with the aforesaid direction, they are permitted to submit replies to the show cause notices on or before 20.01.2022.

9. They shall thereafter be heard personally and a view taken in regard to the extension of the leases or otherwise within a period of four weeks from date of personal hearing, that is, on or before 21.02.2022. Let the petitioners not be disturbed from possession till 21.02.2022, conditional upon the arrears having been remitted on or before 12.01.2022.

10. It is made clear that if the direction at paragraph 8 is not complied with, the respondents are at full liberty to proceed with the



proceedings as proposed as well as any other proceedings as may be contemplated to recover the arrears of rent from the petitioners and evict them as per law.'

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3. These writ petitions are thus dismissed in terms of the observations at paragraph 3 of the order. Paragraph 8 will remain identical except for modification of dates as below:

'8. As on date, the petitioners are defaulters. There is a direction to them to pay the enhanced lease rentals computed for the entirety of the period when they were in occupation of the shops, computed on the basis of the lease agreement being 'prevailing rent', on or before 12.04.2022. Upon condition that the petitioners comply with the aforesaid direction, they are permitted to submit replies to the show cause notices on or before 29.04.2022.'

4. Paragraph 9 will remain identical except for modification of dates as below:

'9. They shall thereafter be heard personally and a view taken in regard to the extension of the leases or otherwise within a period of four weeks from date of personal hearing, that is, on or before 30.05.2022. Let the petitioners not be disturbed from possession till 30.05.2022, conditional upon the arrears having been remitted on or before 12.04.2022.'

5. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ska/vs

To

1.The Member Secretary,
Tamil Nadu Sports Development Authority,
116-A, E.V.R.Periyar High Road,
Nehru Park, Chennai-600 030.



2.The Regional Senior Manager,
Development of Sports & Youth Welfare,
Sports Development Authority of Tamil Nadu,
Coimbatore Region,
Nehru Stadium Complex,
Coimbatore - 641 018.

+2 ccs to M/s.BFS Legal, Advocate Sr.NO. 23204 & 23205
+1 cc to Government Pleader Sr.NO. 23638

W.P. Nos.8112 & 8114 of 2022 and
WMP.Nos.8097 & 8098 of 2022

pa (CO)
A.SK(12/04/2022)