IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.9067 of 2013
and W.M.P.No.1 of 2013

JKK Rangammal Charitable Trust
Represented by its Managing Trustee
Mrs.N.Sendamaraai
230, Salem Main Road,
Komarapalayam 638 183
Namakkal District. ... Petitioner

Vs.

1.Union of India
Represented by its Women and Child Development
Ministry of Human Resource Development
Shastri Bhavan,
New Delhi – 110 001.

2.The Tahsildar,
Tiruchengode,
Namakkal District. ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the proceedings of the 2nd respondent contained in the notice in Form-I C.P.1/1998(A10) dated 7.3.2013 taken under the Revenue Recovery Act and quash the said proceedings.

For Petitioner : Mr.J.Abishek

For Respondents : Mr.A.Veeramani
Central Government Counsel for R1

Mr.U.Baranidharan
Additional Government Pleader for R2

ORDER

This writ petition was filed challenging the revenue recovery proceedings initiated by the 2nd respondent by issuing notice in Form-1, dated 07.03.2013.

2.The petitioner Trust applied to the 1st respondent for sanction of a grant of a sum of Rs.24,16,570/- for the construction of a Working Womens Hostel along with a Day Care Centre for Children. The 1st respondent on receipt of the application sanctioned the amount through proceedings dated 02.08.1994. The 1st respondent sanctioned a non-recurring grant of a sum of Rs.24,16,570/- in favour of the petitioner.

3.The grant that was sanctioned by the 1st respondent was subject to certain terms and conditions and the petitioner was also expected to execute a bond in favour of the 1st respondent.

4.The further case of the petitioner is that the 1st respondent released a sum of Rs.7,24,700/- during October 1994 as the first installment, out of the sanctioned amount, to the petitioner. The petitioner Trust also constructed a Working Womens Hostel and according to the petitioner, they had spent a sum of Rs.8,50,000/- towards the partial construction of the hostel. At this juncture, acquisition proceedings were initiated by the Highways Department and the petitioner Trust was advised to demolish the structure that was put up by them. In view of this development, the petitioner decided not to proceed further with the construction in the site. The structure that was already put up by the petitioner was also demolished.

5.It is stated that the petitioner made a representation to the 1st respondent to permit change of place for the construction of the hostel and also submitted a revised plan in this regard. The petitioner also proposed that the grant that was already released can be adjusted towards the grant that will be sanctioned for the revised project. The 1st respondent through a communication dated 08.08.2002, informed the petitioner that there is no provision for change of site once it is sanctioned for a particular place and the petitioner was asked to refund a sum of Rs.6,24,700/- (after deduction of Rs.1,00,000/-) with interest at the rate of 16% per annum compounded.

The 1st respondent had demanded this interest amount by placing reliance upon one of the condition that was agreed by the petitioner in the bond executed by them.

6.The petitioner proceeded to refund the entire principal amount that was advanced by the 1st respondent and was making repeated representations to the 1st respondent that the interest demanded was exorbitant and it is not in line with the terms and conditions of the grant or the bond executed by the petitioner.

7.The grievance of the petitioner is that the 2nd respondent issued a Memo dated 03.08.2006, calling upon the petitioner to pay the interest amount of a sum of Rs.23,76,803/- on or before 17.08.2006, failing which, proceedings will be initiated under the Revenue Recovery Act. This notice issue by the 2nd respondent was challenged by the petitioner by way of filing a suit and it is brought to the notice of this Court by the learned counsel for the petitioner that the suit has been subsequently dismissed for non-prosecution. The 2nd respondent thereafter proceeded to issue the impugned notice dated 07.03.2013 and took steps to recover the amount under the Revenue Recovery Act. Aggrieved by the same, the present writ petition was filed before this Court.

8.Heard Mr.J.Abishek, learned counsel appearing on behalf of the petitioner, Mr.A.Veeramani, learned Central Government Counsel appearing on behalf of the 1st respondent and Mr.U.Baranidharan, learned Additional Government Pleader appearing on behalf of the 2nd respondent.

9.The 1st respondent has not chosen to file any counter affidavit in this writ petition in spite of sufficient opportunity being given by this Court. Therefore, this Court proceeds to decide this writ petition based on the materials placed before this Court.

10.There is no serious dispute with regard to the facts of this case. The petitioner approached the 1st respondent and sought for a grant for constructing a Working Womens Hostel along with a Day Care Centre for Children in their property. The 1st respondent sanctioned a non-recurring grant of a sum of Rs.24,16,570/- and the 1st installment of a sum of Rs.7,24,700/- was also released to the petitioner Trust. The petitioner Trust also proceeded to start the construction. When the construction was in progress, proceedings were initiated by the High Ways Department to acquire the land belonging to the petitioner for the expansion of NH-47. The same is clear from the notification dated 24.07.2006, which forms part of the typed set of papers.

11.In view of the above development, the petitioner was not in a position to complete the construction and the petitioner was forced to pull down the structure that was put up by them. The petitioner also bonafide made a representation to the 1st respondent requesting for shifting the construction of the Working Womens Hostel to some other site, since the original site was sought to be acquired by the Highways Department. The 1st respondent through communication dated 08.08.2002 informed the petitioner that there is no scope for change of site once a sanction is given for a particular site. In view of the same, the 1st respondent sought for the refund of the amount that was already paid to the petitioner. Insofar as the principal amount is concerned, there was no dispute. The bone of contention arises only insofar as the request made by the 1st respondent for the payment of compound interest at the rate of 16% per annum.

12.The petitioner on receipt of the communication dated 08.08.2002 informed the 1st respondent that the construction was forced to be stopped due to the acquisition by the Highways Department and they have already suffered a loss, since the construction was pulled down in spite of spending the amount and they have also refunded the entire principal amount to the 1st respondent. The petitioner questioned the interest that was charged by the 1st respondent and requested for the waiver of the said interest.

13.At this juncture, it will be relevant to take note of the condition that was stipulated in the bond that was executed by the petitioner when the grant was sanctioned and the relevant condition is extracted hereunder:

> *4.Now the condition of the above written obligation is such that the obligors duly fulfill and comply with all the conditions mentioned in the letter of sanction, the above written bond or obligation shall be void and of no effect. But other wise it shall remain in full force and virtue. If a part of the grant is left unspent after the expiry of the period within it is required to be spent, the obligors agree to refund the unspent balance along with interest at the rate of 16% (sixteen percent) per annum unless it is agree to be carried over, the amount of grant to be refunded and interest thereon will be recover as arrears of land revenues.*

14.On carefully going through the above condition, it can be seen that the payment of interest will arise only in a case where the grant is left unspent even after the expiry of the stipulated period within which it is required to be spent and in such circumstances, the unspent balance has to be refunded along with an interest of 16% per annum.

15.In the present case, this Court is not dealing with a scenario where there is an unspent balance on the part of the petitioner which was not spent within the stipulated period. This is a case where the petitioner had put up construction for the amount that was already received by them and they were not able to proceed further with the construction and receive the balance grant, since the site in question was sought to be acquired by the Highways Department. Infact, the copy of the Award dated 20.12.2007 clearly shows that the site was already acquired and the award amount was also fixed and paid to the petitioner. Therefore, there is no question of the petitioner not completing the construction and consequently, not availing of the balance grant amount from the 1st respondent and such an eventuality will never arise in this case due to the acquisition of the site by the Highways Department. The petitioner had bonafide refunded the entire principal amount advanced to them for the period from 14.06.2002 to 24.09.2004.

16.In view of the above, the demand made by the 1st respondent for payment of compound interest at the rate of 16% per annum is illegal. For the sake of completion of facts, this Court has to point out that the bond condition never contemplate the payment of compound interest even in a case where there is an unspent balance. The 1st respondent has wrongly interpreted Clause 4 of the bond condition and the 1st respondent was not justified in seeking for the refund of a compound interest at the rate of 16% per annum from the petitioner. In view of the same, the consequential proceedings initiated by the 2nd respondent under the Revenue Recovery Act is also liable to be interfered by this Court.

17.As a result of the above discussion, this Court has absolutely no hesitation to interfere with the impugned Form-1 notice dated 07.03.2013 issued by the 2nd respondent and the same is hereby quashed.

18.In the result, this writ petition stands allowed. No Costs. Consequently, connected miscellaneous petition is closed.

06.07.2022

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
ssr

To

1.Union of India
Represented by its Women and Child Development
Ministry of Human Resource Development
Shastri Bhavan,
New Delhi – 110 001.

2.The Tahsildar,
Tiruchengode,
Namakkal District.

N. ANAND VENKATESH, J.

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