



W.P. No. 7556 of 2014

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2022

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

W.P. No. 7556 of 2014

and

M.P. No. 1 of 2014

1. Rajendra Gupta

2. Asoka Gupta

3. M/s.Picnic Hotels Pvt. Ltd.,
rep. by its Director Rajendra Gupta

... Petitioners

Versus

1. State of Tamil Nadu,
rep. by the Secretary to Government,
Revenue Department,
Secretariat, Fort St. George,
Chennai-600 009.

2. The Chennai Metro Rail Limited,
rep. by its Managing Director,
Harini Towers, 7, Conran Smith Road,
Gopalapuram, Chennai-600 086.



W.P. No. 7556 of 2014

WEB COPY

3. The Corporation of Chennai,
rep. by its Commissioner,
Ripon Building,
Chennai-600 003.

... Respondents

PRAYER : Writ Petition filed under Art. 226 of Constitution of India, praying to issue a Writ of Mandamus directing the respondents to pay to the petitioner compensation for the superstructures put up by the petitioner at Door Nos. 1132 and 1132/1, Poonamallee High Road, Chennai-3, which have now been demolished and also compensate the petitioners for the loss of business for the period from October 2011 till 30.09.2028, on account of premature closure of their hotel business.

For Petitioner : Mr.R.Parthasarathy

For Respondents : Mr.D.Gopal,
Govt. Advocate for R1

Mr.Jayesh B. Dolia for R2

Ms.P.T.Ramadevi for R3

ORDER

This Writ Petition has been filed claiming compensation for demolition of petitioners' premises by the respondents.



W.P. No. 7556 of 2014

WEB COPY

2. The Writ Petition has been filed mainly based on the observation made by the Apex Court while deciding the Civil Appeal No.2572 and 2573 of 2014, which has been filed by the M.D. Chennai Metro Rail Ltd. against N.Ismail and others. In the above case, it appears that the property belongs to Buhari Hotel and in para 23, the Apex Court has held as follows :-

“23. Therefore, while the impugned G.O. and the consequential orders of the Tahsildar and AG & OT can be sustained, having regard to the condition contained in the initial G.O. Ms. Nos.763 and 253 dated 09.12.1898 and 17.01.1899 since based on valid orders of the High Court and the AG & OT the first respondent developed its Hotel business in the lands in question, while resuming the lands, the State Government along with the Chennai Metro is bound to compensate the first respondent for the buildings, which were erected in the said land in Survey No.43/2 based on the valuation to be made by the appropriate authorities.”

Taking cue of the above observation, the Writ Petition has been filed claiming compensation by the petitioners. According to the petitioners, they are also similarly affected persons, there cannot be any



W.P. No. 7556 of 2014

WEB COPY

discrimination in not extending such benefit. Mr. R.Parthasarathy, learned counsel for petitioners mainly would contend that calculation is available and the same is not disputed. Therefore, the Writ Petition is maintainable. Hence, he seeks a direction to the respondents to award compensation.

3. The learned counsel appearing for respondents would submit that the above case, which is relied upon by the petitioner in Civil Appeal Nos. 2572-2573 of 2014 is pertaining to the existing lease, whereas the present petitioners', who was a sub-lessee. The lease period expired on long back. In the suit filed by him for injunction, the issue has been dealt elaborately by the learned Single Judge, wherein it was categorically held that the petitioner cannot be entitled to any compensation. The learned Single Judge also observed that if at all, the petitioner wants to pursue for compensation, he has to establish the same in the suit and not in an application. The learned counsel has also referred further observations made by learned single judge in paras 113, 114 and 115 in a suit filed by the petitioner in C.S.No.1037 of 2009.



W.P. No. 7556 of 2014

WEB COPY

4. Perused the entire materials. The Writ Petition has been filed mainly for claiming compensation on the ground that the petitioners' building has been demolished in the process of metro works. According to them, similarly situated hotel viz., Buhari hotel was provided compensation as per the direction of Apex Court in the Civil Appeal case referred above. As the calculation is readily available, there cannot be any dispute over the quantum arrived. Hence, the Writ Petition is very well maintainable. This Court, on perusal of records, particularly, the nature of relief claimed for compensation is of the view that the Writ Petition is not maintainable. Apart from that, it is relevant to note that the petitioners themselves filed a suit in C.S.No.1037 of 2009 and though the suit filed seeking for permanent injunction, while passing a common order, the learned Single Judge of this Court in para 113, 114 and 115 has observed as follows :-

“113. At this juncture, it should be pointed out that under clause 6 of the registered Deed of Sub-lease dated 17.06.1968, the plaintiffs were obliged to surrender all the superstructures to the Trust, without claiming any compensation, after the expiry of the initial period of 18



WEB COPY



W.P. No. 7556 of 2014

years (from 1.04.1968) or at least after the expiry of the extended term, viz., 31.03.2008. Therefore, whatever structures they have put up, may not entitle the plaintiffs to any compensation, since the term of sub-lease contemplated under the registered deed dated 17.06.1968 came to an end on 31.03.2008. Therefore, whatever structures they have put up, may not entitle the plaintiffs to any compensation, since the term of sub-lease contemplated under the registered deed dated 17.06.1968 came to an end on 31.03.2008.

114. Even if I go by the registered deed dated 12.10.1973, which according to me, is a document vitiated for several reasons indicated supra, the plaintiffs are not entitled to any compensation for the superstructures, if they are allowed to continue till 30.09.2028. Therefore, in essence, even if the document dated 12.10.1973 is presumed to be a valid document, binding on the Corporation, the plaintiffs may not be entitled to any compensation for the superstructures, except on the ground, that the sub-lease got terminated earlier than the period agreed under the Deed dated 12.10.1973.

115. In other words, assuming the best possible scenario for the plaintiffs, they may not be entitled to any order of injunction. At the most, they may be entitled to



W.P. No. 7556 of 2014

compensation for the earlier termination of the sub-lease, subject however to the plaintiffs establishing in the course of trial of the above suits that the document dated 12.10.1973 is valid and binding. The plaintiffs in my opinion, have a long way to go to establish that the document dated 12.10.1973 is valid and binding. There are any number of reasons, some of which have been indicated in the previous portion of this order, to show that this document dated 12.10.1973 is vitiated.”

The above order is also confirmed by the Division Bench of this Court in O.S.A. Nos.100, 101, 105 and 106 of 2011 dated 15.09.2011, wherein the Division Bench elaborately discussed the above referred order passed by Apex Court and categorically accorded the finding that the writ proceedings and orders passed thereon were when the original lease was very much alive and subsisting and finally, dismissed the appeals. As against which, Special Leave to Appeal was also filed. While dismissing the Special Leave to Appeal, the Apex Court held as follows :-

“It is, however, expected and hoped that the trial court dealing with the suit filed by the petitioners will expedite the proceedings.”



W.P. No. 7556 of 2014

WEB COPY

Accordingly, this Court is of the view that though the suit was filed seeking for permanent injunction, the orders have been reached finality. Therefore, Writ Petition filed claiming the relief of compensation cannot be granted. At the most, if the petitioners still want to pursue the relief for compensation, as observed by the Single Judge in the order referred above in para 115, it is well open to the petitioners to agitate before the learned Single Judge by seeking appropriate relief. In such view of the matter, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

25.11.2022

Index: Yes/No
Internet: Yes/No
rpp

To

1. The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Secretariat, Fort St. George,
Chennai-600 009.



W.P. No. 7556 of 2014

WEB COPY

2. Managing Director,
The Chennai Metro Rail Limited,
Harini Towers, 7, Conran Smith Road,
Gopalapuram, Chennai-600 086.

3. The Commissioner,
The Corporation of Chennai,
Ripon Building,
Chennai-600 003.

4. The Public Prosecutor,
High Court, Madras.



WEB COPY



W.P. No. 7556 of 2014

N.SATHISH KUMAR, J.

rpp

W.P. No. 7556 of 2014

25.11.2022