



Writ Petition No.33157 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16/12/2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Writ Petition No.33157 of 2022

a n d

W.M.P.No.32563 of 2022

L. Saravanakannan

...

Petitioner

Vs

1. The Executive Officer
Nasiyanur Town Panchayat
Erode District.

2. The Additional Chief Secretary
to Government of Tamil Nadu
Municipal Administration and
Water Supply (M.A.IV) Department
Chennai 600 009.

...

Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records pertaining to the impugned demand notice in Na.Ka.No.44/2019 dated 18/11/2022 issued by the first respondent demanding the arrears of lease amount of Rs.3,25,839/- for the period 2021 - 2022 for petitioner's toll collection tender at Nasiyanur weekly market, Nasiyanur Erode District and



Writ Petition No.33157 of 2022

quash the same and consequently, direct the respondents to waive the same by considering the petitioner's representation dated 21/1/2021.

For Petitioners	...	Mr.J.Titus Enock
For respondents	...	Mr.C.Kathiravan Special Government Pleader for R.1
		Mr.N.Naveen Kumar Government Advocate for R.2

ORDER

This writ petition has been filed praying to quash the demand notice in Na.Ka.No.44/2019 dated 18/11/2022 issued by the first respondent demanding the arrears of lease amount of Rs.3,25,839/- for the period 2021 - 2022 for petitioner's toll collection tender at Nasiyanur weekly market, Nasiyanur Erode District and consequently, direct the respondents to waive the same by considering the petitioner's representation dated 21/1/2021.

2. The case of the petitioner is that the petitioner is a successful bidder to collect toll in Nasiyanur Town Panchayat Weekly Market (vaara Sandhai) for the period of three years from 1/4/2019 to 31/3/2022 and paid Rs.35,499/- to the first respondent as monthly lease amount. Due to lock



down, all the shops were closed. Hence, all the shop owners met the first respondent and requested for waiver of rents. While so, the second respondent issued G.O.(D) No.298 Municipal Administration and Water Supply (MA IV) Department, dated 2/9/2020 and thereby, waived the rent for all town panchayat shops for the period 1/4/2020 to 31/5/2020 including the petitioner's lease amount.

3. Since the lock down restrictions with respect to travel and bus services were extended, on 21/1/2021, the petitioner had made a representation to the second respondent through first respondent in person, requesting to waive the lease amount from June 2020 to December 2020. Though the Government has permitted the public to travel from 31/8/2020, weekly market has not been opened because the possibility of virus spread is very high.

4. When the matter stood thus, the first respondent had issued demand notice calling upon the petitioner to pay the arrears of lease amount for the period 2020 to 2021 i.e., Rs.3,25,839/-. Hence the petitioner had made a representation to the second respondent to waive the lease amount. Since the same has not been considered so far, petitioner has come forward



with the present writ petition praying for the relief as stated therein.

WEB COPY

5. In the counter filed by the first respondent, it is stated that the impugned notice, dated 18/11/2022, is a demand notice for payment of the amount due to the first respondent for the period from 2021-2022 i.e, for the period 1/4/2021 to 31/3/2022 and during that period, there was no covid and the petitioner cannot claim any waiver and there is no justifiable reason to consider the case of the petitioner and hence prays for dismissal of the writ petition.

6. Heard Mr. J.Titus Enock, learned counsel for the petitioner, Mr.C.Kathiravan, learned Special Government Pleader, learned Special Government Pleader for the first respondent and Mr.N.Naveen Kumar, learned Government Advocate for the second respondent.

7. Learned counsel appearing for the petitioner submitted that in the month of March 2021, the petitioner had paid the lease amount for the months of January 2021 to March 2021. On 18/11/2022, the first respondent had issued a demand notice calling upon the petitioner to pay the arrears of lease amount for the period of 2020 - 2021. The Government cannot on one



Writ Petition No.33157 of 2022

hand impose restrictions for a particular period and on the other hand seek to recover the lease amount from the lessee for the same period.

8. In such a view of the matter, considering the lock down and subsequent restrictions and various time till the lifting of the total lock down, this Court is of the view that the first respondent shall consider the representation of the petitioner for waiver of three months rent.

9. Accordingly, the petitioner is directed to give a fresh representation to the first respondent, within a period of one month from today, and on such representation being made, the first respondent shall consider the representation of the petitioner, and pass orders on merits and in accordance with law, within a period of two months, thereafter, after taking into account the ground reality existed, post covid lock down and also the restrictions imposed during the pandemic period.

N. SATHISH KUMAR, J

mvs.



Writ Petition No.33157 of 2022

WEB COPY

10. With the above direction, this writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

16/12/2022

Index : Yes / No

Internet: Yes

Speaking/non speaking order

mvs.

To

1. The Executive Officer
Nasiyanur Town Panchayat
Erode District.
2. The Additional Chief Secretary
to Government of Tamil Nadu
Municipal Administration and
Water Supply (M.A.IV) Department
Chennai 600 009.

W.P.No.33157 of 2022