



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) No.983 of 2022

and

W.M.P. (MD) No.793 of 2022

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G.Kannan

... Petitioner

vs.

1.The Principal Secretary cum Commissioner
of Technical Education,
Directorate of Technical Education,
Chennai-600 025.

2.The Director of Technical Education,
Directorate of Technical Education,
Chennai-600 025.

3.The Principal,
Tamil Nadu Polytechnic College,
Madurai-625 011.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings dated 22.12.2021 made in Letter No.1003/Ni.2/2017 issued by the third respondent, quash the same insofar as the demand of enhanced rent of Rs.1,49,730 with retrospective effect from 01.09.2007 to 31.08.2009.

For Petitioner : Mr.N.Marimuthu

For Respondents : Mr.N.Satheeshkumar
Additional Government Pleader

O R D E R

Mr.N.Satheeshkumar, learned Additional Government Pleader, takes notice on behalf of all the respondents.

2.The petitioner, G.Kannan, had the benefit of running a photocopying center within the college campus of the third respondent/The Principal, Tamil Nadu Polytechnic College, Madurai. He had the said benefit from 29.03.1996 at a monthly rent of Rs.300/-. The said rent continued till 11.08.2009. Even at the rate of Rs.300/ per month, the petitioner ran up an arrears and defaulted in payment of the rental rent. Thereafter, the rent was enhanced. The petitioner's default only increased.

3.It is clear from the above, that the petitioner and the third respondent have a contractual relationship between them with respect



to permitting the petitioner to run the photocopying center and in turn, the petitioner paying necessary rent as demanded for the said photocopying center. The petitioner being a chronic defaulter had approached this Court on earlier occasions.

4.He had originally filed W.P.(MD)No.11801 of 2014. Final order which was passed in that particular writ petition on 12.04.2018, owing to a endorsement made by the learned counsel for the petitioner to withdraw the writ petition and it was dismissed as withdrawn. Then once again, the respondents initiated action for enhancement of rent and claimed enhanced rent. The petitioner, then, again filed W.P.(MD)No.15234 of 2018 and final order was passed in that particular writ petition on 20.11.2019 by dismissing the said writ petition. It was clearly observed in the said order that the arrangement between the writ petitioner and the respondents is purely contractual. The license fee is also a term of the contract. Thereafter, it was observed that the Court under Article 226 of the Constitution of India cannot interpret the contract.

5.The learned counsel for the petitioner states that the petitioner is prepared to pay the arrears of rent but questions demand for retrospective period. The retrospective period is nothing but the period for which the petitioner was actually in possession. It is not as if the rent is now asked for a period when the petitioner was not in possession. When the petitioner was in possession, naturally he has pay the rent. If the rent has increased, then he has to pay the increased rent. The petitioner cannot claim any benefit. He had the benefit from the year 1996 in running photocopying center at a very reasonable rent of Rs.300/- per month. Having had the benefit for the past nearly more than 25 years, the petitioner now has to realize that his time is ran up.

6.As a matter of fact, the property has also been brought to auction and auction had also been conducted. Therefore, the locus of the petitioner now to even maintain the writ petition is under question. He is not in possession. He cannot retain possession. It is the successful bidder in the auction, who has every right to take possession of the shop. The petitioner has been called upon to pay the arrears. It is a contract between the petitioner and the third respondent which has to be examined only as a contract and an agreement signed between the two parties. This Court cannot thrust upon either one of the two parties a particular clause or even interpret a particular clause in a manner in which they have not understood and did not agreed to be understood while entering into such a contractual relationship.

7.The Writ Petition is wholly misconceived and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.



8.The petitioner always has the option to move the Civil Court for any relief which he seeks provided, the suit is maintainable.

Sd/-

Assistant Registrar (CS I)

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Sub Assistant Registrar(CS)

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Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal Secretary cum Commissioner
of Technical Education,
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2.The Director of Technical Education,
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Madurai-625 011.

+1 CC to M/s.S.RAMU, Advocate(SR-2152[F] dated
24/01/2022)

+1 CC to M/s.SPL.GP (SR-2401[F] dated 25/01/2022)

W.P. (MD) No.983 of 2022
24.01.2022

MGJ(09.02.2022) 3P 6C