



W.P(MD)Nos.12709 and 14498 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 11.07.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.12709 and 14498 of 2022

and

W.M.P.(MD)Nos.9011, 9012, 10369 and 10370 of 2022

W.P.(MD)No.12709 of 2022:-

M/s.S.R.M.Hotels P.Ltd.,

Represented by its Executive Director

D.Antony Ashok Kumar

... Petitioner

Vs.

1. Tamil Nadu Tourism Development Corporation Ltd.,
(A Govt of Tamil Nadu Undertaking),
Represented by its General Manager,
Tamil Nadu Tourism Complex,
No.2, Wallajah Road,
Chennai – 600 002.

2. The District Collector @
Tiruchirappalli,
Tiruchirappalli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records on the file of the respondent in his impugned proceedings of the 2nd respondent in Na Ka A4/40238/1993 dated 25.03.2022 quash the same as illegal.



W.P.(MD)Nos.12709 and 14498 of 2022

For Petitioner : Mrs.R.Hemalatha

For Respondents : Mr.C.Lakshmanan,
Standing Counsel for R1.
Mr.Veerakathiravan,
Addl. Advocate General
Assisted by Mr.K.Balasubramni,
Spl. Government Pleader for R2.

W.P.(MD)No.14498 of 2022:-

M/s.S.R.M.Hotels P.Ltd.,
Represented by its Executive Director
D.Antony Ashok Kumar

... Petitioner

Vs.

1.Tamil Nadu Tourism Development Corporation Ltd.,
(A Govt of Tamil Nadu Undertaking),
Represented by its General Manager,
Tamil Nadu Tourism Complex,
No.2, Wallajah Road,
Chennai – 600 002.

2.The District Collector @
Tiruchirappalli,
Tiruchirappalli District.

3.The Tahsildar,
Office of the Tahsildar,
Tiruchirappali (East),
Tiruchirappalli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records on the file of the 2nd respondent in his impugned proceedings of the 2nd respondent in Na Ka A4/40238/1993 dated 29.07.2021 quash the same as illegal.



WEB COPY



W.P(MD)Nos.12709 and 14498 of 2022

For Petitioner : Mrs.R.Hemalatha

For Respondents : Mr.C.Lakshmanan,
Standing Counsel for R1.
Mr.Veerakathiravan,
Addl. Advocate General
Assisted by Mr.K.Balasubramni,
Spl. Government Pleader for R2 & R3.

COMMON ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Advocate General for the respondents.

2.The writ petitioner is in the field of hospitality industry. The Tamil Nadu Government organized eighth world tamil conference at Thanjavur in the year 1995. Since they anticipated that there will be delegates from other countries, it wanted the infrastructure facilities to be scaled up. They therefore invited applications from private entrepreneurs for setting up four star hotels at Trichy. The petitioner was selected for constructing a four star hotel. G.O. (Ms).No.150, Information & Tourism (Tourism-6) Department, dated 10.06.1994 was issued in this regard. The said G.O., envisages the revision of lease amount once in every three years. There is no dispute regarding fixation of lease amount for the first three block periods ie., 1994 – 1997, 1997 – 2000



W.P.(MD)Nos.12709 and 14498 of 2022

and 2000 – 2003. For the block period 2000 – 2003, the petitioner paid the lease amount of Rs.7,00,562/- per annum. This was enhanced to Rs.59,33,133/-. The revision was made much later. The revision fixed by the Government for the period 2003 to 2015 is the subject matter of challenge in W.P.(MD)No.14498 of 2002 and the lease amount fixed for the period 2015 to 2021 is the subject matter of challenge in W.P.(MD)No.12709 of 2022.

3.The learned counsel for the writ petitioner took me through the affidavit filed in support of the writ petitions and contended that the impugned orders deserve to be set aside.

4.Per contra, the learned Additional Advocate General for the official respondents submitted that the petitioner owes to pay a sum of Rs.17,79,66,486/- and that the petitioner has only been called upon to remit the contractual amount and no interference is called for and the writ petitions are liable to be dismissed.

5.I carefully considered the rival contentions and went through the materials on record.



WEB COPY

6.Clause 3 of G.O.(Ms).No.150, Information & Tourism (Tourism-6)

Department, dated 10.06.1994 is relevant; it reads as follows:-

“3.The Government after careful examination have selected M/s.S.R.M.Group of Companies, Madras-33 for construction of a star hotel in the Unit II Complex of Hotel Tamil Nadu (Tourism Development Corporation) at Tiruchirappalli. The period of lease is thirty years and rent will be seven percent per annum of the market value of the land, buildings, trees, appurtenance etc. Lease amount will be fixed and revised once in every three years by the Collector of Tiruchirappalli with respect to prevailing market value.”

7.A mere reading of the aforesaid clause would show that the lease amount will have to be determined with reference to market value of the land, building, trees etc. I went through the contents of the impugned order. The respondent determined the lease amount by choosing the guideline value as the basic value. The distinction between guideline value and market value is well known and well settled one. The said G.O. expects the authority to go by the market value. However, the impugned orders are anchored on the guideline value. There is no difficulty in coming to the conclusion that the impugned



W.P(MD)Nos.12709 and 14498 of 2022

orders are not in consonance with the methodology of valuation prescribed in the said G.O. The impugned orders are liable to be set aside.

8. There is yet another vitiating factor. It is true that the authority is given the power to determine the lease amount. A learned Judge of this Court in the decision reported in AIR 2003 Mad 142 (S.Jayalakshmi v. The Government of Tamil Nadu) held that the exercise of valuation is a quasi-judicial function. From the impugned order, one is not able to discern the basis of valuation. In the very nature of things, the materials on which the valuation is said to be made should be made available for perusal by the writ petitioner. The tentative valuation should be determined in the first instance and the writ petitioner should be informed about the same. The relied on materials should be made available to the petitioner and thereafter, the petitioner should be allowed to question the same and based on the same valuation has to be made. This enquiry can be summary. Since the petitioner has not been put on notice, the impugned orders are quashed and the matter is remitted to file of the second respondent to pass order afresh in accordance with law by following the procedure indicated above. The learned Additional Advocate General states that notice indicating the tentative valuation along with materials relied on will be communicated to the petitioner within a period of ten days from the date of



W.P(MD)Nos.12709 and 14498 of 2022

receipt of a copy of this order. The petitioner is given two weeks thereafter to submit the explanation and second respondent shall pass final order within a period of three weeks thereafter.

10. Even before taking up the cases for hearing, I indicated to the learned counsel for the petitioner that the petitioner will have to be necessarily put on terms. After getting instructions, the learned counsel for the petitioner states that the petitioner without prejudice would pay a sum of Rs.7 Crores to the first respondent corporation within a period of three weeks from the date of receipt of a copy of this order. The said undertaking is recorded.

11. These writ petitions are allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

11.07.2022

Index : Yes / No
Internet : Yes/ No
ias



WEB COPY



W.P(MD)Nos.12709 and 14498 of 2022

G.R.SWAMINATHAN, J.

ias

To:

- 1.The District Collector,
Tiruchirappalli,
Tiruchirappalli District.
- 2.The Tahsildar,
Office of the Tahsildar,
Tiruchirappali (East),
Tiruchirappalli District.

W.P(MD)Nos.12709 and 14498 of 2022

11.07.2022