



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.01.2022**

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

C.R.P. (MD) No.1933 of 2021

and

C.M.P. (MD) Nos.10404 and 10405 of 2021

WEB COPY

M/s.Bharath Petroleum Corporation Limited,
represented by its Territory Manager,
Tirhirappalli.

... Petitioner/Appellant

vs.

The Estate Officer/Commissioner,
Thanjavur City Municipal Corporation,
Thanjavur.

... Respondent/Respondent

PRAYER:- This Petition is filed under Article 227 of the Constitution of India, to call for the records from the learned Principal District Judge, Thanjavur in CMA.No.18 of 2021 dated 18.11.2021 and set aside the same.

For Petitioner : Mr.N.Sathish Babu
For Respondent : Mr.N.Dilipkumar

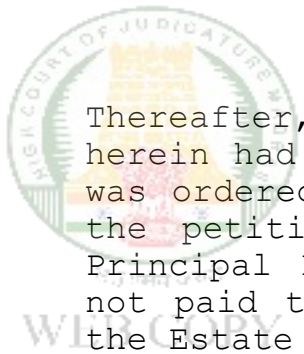
ORDER

The petitioner/Public Sector undertaking is before this Court, challenging the order of eviction passed against them by the respondent herein dated 01.10.2021, which is confirmed by the learned Principal District Judge, Thanjavur, by his order dated 18.11.2021 in CMA.No.18 of 2021.

2.The facts in brief are as follows:-

3.An extent of 11470 sq.ft., out of a total extent of 2,14,550 sq.ft., located in T.S.No.34/3 at Kodimaruthu Moolai, Thanjavur Town, had been leased out to the the petitioner/M/S.Bharat Petroleum Corporation Limited in the year 1962. The lease has been revised periodically and the last of the lease was from 01.10.1998 to 30.09.2001, which was extended up to the period 30.09.2007. The respondent Corporation had revised the rent to a sum of Rs. 50,932/- per month, which was not acceptable by the petitioner herein.

4.The petitioner has filed a suit O.S.No.309 of 2009, challenging the revision of rent and the said suit is still pending. Meanwhile, since the possession of the petitioner was that of an unauthorized occupant with effect from 01.10.2007, a show cause notice was issued on 06.08.2021 under the Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act, 1975, (herein after referred to as Act), to which a reply was sent on 06.09.2021.



Thereafter, an enquiry was held on 30.09.2021, where the petitioner herein had not participated. By an order dated 01.10.2021, eviction was ordered by the respondent/Estate Officer. Challenging the same, the petitioner had filed CMA.No.18 of 2021 on the file of the Principal District Court, Thanjavur. Meanwhile, the petitioner had not paid the revised rent. After the eviction order was passed by the Estate Officer of the respondent Corporation, on 15.11.2021, the petitioner herein had deposited a sum of Rs.1, 06,29,677/- constituting the rent for the period from 01.10.2007 to 30.09.2022 under protest. This would clearly establish the fact that the rents had not been paid. Thereafter, by the order dated 18.11.2021, the learned Principal District Judge, Thanjavur was pleased to confirm the order passed by the Estate Officer. The learned Judge had observed that after 30.09.2007, the appellant was an unauthorised occupant, who was liable to be evicted under the Act. The appellate Court had also taken note of the fact that the rents had been paid only pending the appeal. Further, the learned Judge had also noted the fact that the petitioner had not appeared before the Estate Officer, despite notice of summons to them. Hence, the order of the Estate Officer was confirmed. Challenging the same, the petitioner is before this Court.

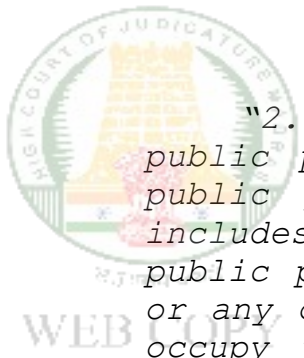
5.The only argument that has been primarily advanced by the learned counsel appearing for the petitioner was that the petitioner is a Public Sector undertaking and has been in occupation of the premises for over 60 years and doing public service. The demand for higher rent was totally without justification. Further, since the rent had been paid up to 30.09.2007, the petitioner cannot be termed as an unauthorized occupant. The learned counsel appearing for the petitioner had reiterated these contentions.

6.The learned counsel appearing for the respondent Corporation would submit that the petitioner has not made out any ground to interfere with the findings of the authorities below. The petitioner had not paid the rents and it was only after eviction was ordered by the Estate Officer that the rents had been paid. The lease had not been extended beyond 30.09.2007 and thereafter, as per the provisions of the Act, the petitioner was an unauthorized occupant. The petitioner had also not paid the rents from 01.10.2007. The learned counsel would also submit that since possession has been taken by the respondent Corporation, nothing survives for consideration in the revision petition.

7.Heard the learned counsels on either side.

8.Admittedly, there is no extension of the lease post 30.09.2007. The petitioner instead of negotiating the terms has challenged the revision of rent by filing a suit and by not paying the rents thereafter they have committed a default in the payment of rents. Section 2 (g) of the Act would define an unauthorized

<https://hccourtsonline.in/hcservices/> follows:-



"2.(g). "Unauthorized occupation", in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever."

9.Admittedly, the lease had come to end on 30.09.2007. Therefore, on and from 01.10.2007, the occupation of the petitioner was unauthorized. Therefore, the petitioner instead of reworking the terms of lease had challenged the revision of rent by filing a suit. By filing the suit, the petitioner had signalled that they are not ready to accept the revised terms of the lease. Therefore, on and from 01.10.2007, the petitioner is an unauthorized occupant. Added to this by reason of the non-payment of rents they have been in default. The Court has also taken note of the fact of the subsequent event that the possession has been taken over by the respondent Corporation.

10.In these circumstances, there is no merit in this Civil Revision Petition. Consequently, the Civil Revision Petition stands dismissed. The order passed by the learned Principal District Judge, Thanjavur in CMA.No.18 of 2021 dated 18.11.2021 is hereby confirmed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mm

To

The Principal District Judge,
Thanjavur.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-3523[F] dated 01/02/2022)

C.R.P. (MD) No.1933 of 2021

31.01.2022

_RD(16.02.2022) 3P 3C