IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15-03-2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.2566 of 2015
And
MP No.1 of 2015

P.S.Govindaswamy Naidu and Sons Charities,
Represented by its General Manager-Administration,
Post Box No.1609, Peelamedu,
Coimbatore-641 004. .. Petitioner

vs.

1.The District Collector,
Coimbatore.

2.The Tahsildar,
Coimbatore South,
Coimbatore.

3.The National Textile Corporation,
Represented by its Chief General Manager,
NTC House, P.O.Box No.2409,
10/64, Somasundaram Mills Road,
Coimbatore-641 009.

4.The Estate Officer appointed under the
Public Premises (Eviction of Unauthorised
Occupants) Act, 1971,
The National Textile Corporation,
10/64, Somasundaram Mills Road,
Coimbatore-641 009. .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records of the first respondent in his proceedings dated 24.10.2014 in Na.Ka.No. 4700/214/A7, quash the same and consequently direct the respondents to refund a sum of Rs.1,46,24,342/- collected illegally and in excess from the petitioner along with interest.

For Petitioner : Mr.J.Abishek

For Respondents-1 and 2 : Mr.S.Ravichandran,
Additional Government Pleader.

For Respondents-3 and 4 : Mr.C.V.Vijayakumar

ORDER

The demand notice dated 24.10.2014 issued by the second respondent asking the petitioner to pay the balance interest amount of Rs.1,89,72,000/- within the period of 15 days, is under challenge in the present writ petition.

2. The petitioner is P.S.Govindaswamy Naidu and Sons Charities. During the year 1922, P.S.G and Sons Managing Agency incorporated the Sri Ranga Vilas Ginning, Spinning and Weaving Mills Limited. Subsequently, the Mill was administered by the petitioner-Trust. Apart from the Mill premises, the Company owned several properties including the premises bearing Door No.645, Avinashi Road, Coimbatore. The said building was used as a Private Residence by one of the Directors of the Mill, Sri G.V.Ramaswamy Naidu, who was also a Trustee of the petitioner-Trust.

3. In the year 1969, the Mill was nationalised under the Sick Industries Nationalisation Act and was taken over by the second respondent. However, the Founder Trustee Mr.G.V.Ramaswamy Naidu was permitted to continue to reside in the premises at Door No.645, Avinashi Road, Coimbatore. The rents in respect of the said premises were paid by the petitioner-Trust and it was accepted by the second respondent.

4. On 06.05.1988, the second respondent issued notice seeking to terminate the tenancy of the said premises and thereafter filed an application with the Estate Officer for eviction under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. During the pendency of the application, the said Founder-Trustee Mr.G.V.Ramaswamy Naidu passed away on 10.02.1990. The proceedings were issued against the petitioner-Trust. Accordingly, the petitioner evicted the subject premises and handed over the possession to the Competent Authorities on 16.09.2010.

5. Subsequently the third respondent-National Textile Corporation issued an order directing the petitioner to pay the total arrears rent of Rs.1,72,51,446/- from 30.06.1988 to 16.09.2010 along with interest of Rs.3,05,79,623/- calculated at the rate of 17.50% per annum.

6. The petitioner-Trust paid the entire amount admittedly with protest.

7. The protest was sent to the Tahsildar, Coimbatore (South), Coimbatore on 30.03.2013. The petitioner-Trust in their letter stated that without prejudice to their right, the payment was made to the tune of Rs.1,86,04,987/- through cheque dated 30.03.2013 towards full and final settlement of damages with interest claimed. Further request is made to issue No Due Certificate. The cheque was issued in the name of the Tahsildar, Coimbatore (South), Coimbatore on 30.03.2013 and it was acknowledged by the Tahsildar. Therefore, the petitioner-Trust have paid the amount without prejudice to their right to establish the claims. The cheque was realised by the Tahsildar, Coimbatore (South), Coimbatore and the funds were transmitted to the National Textile Corporation.

8. The learned counsel for the petitioner mainly contended that admittedly the demands made by the second respondent-Tahsildar were settled along with interest at the rate of 17.50% per annum. The petitioner-Trust paid the amount with protest and by submitting a letter to the

Tahsildar, while settling the amount by way of cheque.

9. That being the factum, further demand was issued by the Tahsildar through impugned order dated 24.10.2014 stating that the petitioner is liable to pay interest amount of Rs.1,89,72,000/- for the period from 06.05.2011 to 31.05.2013 based on the letter sent by National Textile Corporation.

10. The learned counsel for the petitioner relied on Section 7(2) and 2A of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, which reads as under:-

> "(2) Where any person is, or has at any time been, in unauthorised occupation of any public premises, the estate officer may, having regard to such principles of assessment of damages as may be prescribed, assess the damages on account of the use and occupation of such premises and may, by order, require that person to pay the damages within such time and in such instalments

as may be specified in the order.

2A. While making an order under sub-section (1) or sub-section (2), the Estate Officer may direct that the arrears of rent or, as the case may be, damages shall be payable together with simple interest of such rate as may be prescribed not being a rate exceeding the current rate of interest within the meaning of the Interest Act, 1978 (14 of 1978)."

11. The definition of "Current Rate of Interest" as defined under Section 2(b) of the Interest Act, 1978, which reads as under:-

"'Current Rate of Interest' means the highest of the maximum rates at which interest may be paid on different classes of deposits (other than those maintained in savings account or those maintained by Charitable or Religious Institutions) by different classes of scheduled banks in accordance with the directions given or issued to Banking Companies generally by the Reserve Bank of India under the Banking Regulation Act, 1949

(10 of 1949).”

12. Relied on the above provisions, the learned counsel for the petitioner reiterated that the prevailing interest rate during the relevant point of time, which is to be calculated is 10% per annum in average. Therefore, the second respondent ought not to have inflicted excess interest over and above 10% per annum, which is calculated as average by the petitioner.

13. In the present case, the respondents have imposed 17.50% interest per annum, which is not only exorbitant, but unreasonable and the respondents, being a State, cannot impose such rate of interest in respect of the premises, which was originally belonged to the petitioner-Trust and taken over by virtue of a Statute.

14. The learned counsel for the third respondent contended that as per Section 7(2)A of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, the Authorities are empowered to recover compound

interest. However, the compound interest was substituted by Act 2 of 2015 with effect from 22.06.2015. The word “Simple Interest” was substituted by the word “Compound Interest”.

15. The case of the petitioner would not fall under the Amended Act 2 of 2015 dated 22.06.2015. The arrears of rent itself was collected for the year 2010 and thereafter interest was claimed for the delayed payment or otherwise.

16. That being the case, the amended clause of Compound Interest under Section 7(2A) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 would have no application in the case of the writ petitioner. More-so, the writ petition itself was instituted prior to the Amendment.

17. The fact remains that the Mill was constructed in the year 1922 by the Founder-Trustee Mr.G.V.Ramaswamy Naidu. The Mill was

taken over under the provisions of the Sick Industries Nationalisation Act in the year 1969.

18. It is not in dispute that the Founder-Trustee late Mr.G.V.Ramaswamy Naidu was continuing to reside in the said premises. The Competent Authorities had not taken any action immediately. However, the legal heirs of the petitioner had already settled the entire amount and the amount was paid without prejudice to their right to raise objections regarding the claim amount as well as the interest. Section 7(2A) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 contemplates “Simple Interest”. During the relevant point of time, the Amended Act of the year 2015 would not apply to the case of the petitioner. Thus the Authorities ought to have imposed Simple Interest with reference to the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. Simple Interest was defined under the Interest Act, 1978. Thus the bank interest during the relevant point of time for the periods, which all are relevant would come out around 10% in average and

therefore, the respondents are not empowered to impose over and above 10% interest per annum in respect of the amount settled by the petitioner, including the arrears of rent and the interest part.

19. In view of the facts and circumstances, the interest at the rate of 17.50% per annum imposed by the respondents are unreasonable and in violation of Section 7(2A) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and the Interest Act, 1978.

20. Accordingly, the demand notice dated 24.10.2014 issued by the second respondent is quashed. Consequently, the respondents are directed to calculate the entire arrears of rent at the applicable rate prevailing during the relevant point of time with reference to the pre-amended Section 7(2A) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and Section 2(b) of the Interest Act, 1978 and accordingly determine the amount due to be paid by the petitioner and the excess amount, if any paid, is directed to be refund to the petitioner, within

a period of three months from the date of receipt of a copy of this order.

21. With the abovesaid directions, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

15-03-2023

Speaking Order/Non-Speaking Order.
Neutral Citation : Yes/No.
Internet : Yes/No.
Index: Yes/No.
Svn

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S.M.SUBRAMANIAM, J.

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