



W.P.Nos.43013 of 2016 and 14823 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.43013 of 2016 and 14823 of 2020

and

W.M.P.No.36864 of 2016

W.P.No.43013 of 2016

Sua Explosives and Accessories Ltd.,
Sua House, represented by its
S.R.Kalyanam, Authorized Signatory,
No.26/1, Kasturba Cross Road,
Bangalore – 560 001.

... Petitioner

Vs.

- 1.The Government of Tamil Nadu repd by the
Secretary to Government, Revenue Department,
Fort St.George, Madras – 9.
[R1 deleted vide order dated 17.09.2020 made in W.M.P.No.7875 of 2018]
- 2.The Special Commissioner and Commissioner to
Land Administration, Chepauk, Madras – 600 005.



W.P.Nos.43013 of 2016 and 14823 of 2020

3.The District Collector,
Collectorate Road,
Krishnagiri, Tamil Nadu – 635 115.

4.The District Revenue Officer,
Krishnagiri District,
Collectorate Building,
Krishnagiri – 635 115.

5.The Tahsildar,
Hosur.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the respondent no.5 in proceedings No.Roc 7584/2003/A3 dated 31.10.2016 and quash the same as illegal, Unconstitutional, irregular and without jurisdiction and further direct the respondents to assign the lands in S.No.252/1 and 271 of Chennathur Village and 633, Onnalvadi Village, Hosur Taluk, Krishnagiri District.

For Petitioner : Mr.Sunny
For Mrs.V.Srimathi

For R1 : deleted as per order dated 17.09.2020 in
W.M.P.No. 7875 of 2018

For R2 to R5 : Mr.J.Ravindran,
Additional Advocate General

assisted by
Mr.C.Jayaprakash,
Government Advocate



W.P.Nos.43013 of 2016 and 14823 of 2020

W.P.No.14823 of 2020

WEB COPY

Sua Explosives and Accessories Ltd.,
Sua House, represented by its
S.R.Kalyanam, Authorized Signatory,
No.26/1, Kasturba Cross Road,
Bangalore – 560 001.

... Petitioner

Vs.

1.The Government of Tamil Nadu repd by the
Secretary to Government, Revenue Department,
Fort St.George, Madras – 9.
[R1 deleted vide order dated 17.09.2020 made in W.M.P.No.7875 of 2018]

2.The Principal Secretary /
Commissioner of Land Administration, (FAC),
Chepauk, Chennai – 600 005.

3.The District Collector,
Collectorate Road,
Krishnagiri – 635 115.

4.The District Revenue Officer,
Krishnagiri, Collectorate Building,
Krishnagiri – 635 115.

5.The Tahsildar, Hosur.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in proceedings no.Rc.No.E3/18849/2005, dated 16.03.2020, on the file of the 2nd respondent and quash the same.



W.P.Nos.43013 of 2016 and 14823 of 2020

For Petitioner : Mr.Sunny
For Mrs.V.Srimathi

For Respondents : Mr.J.Ravindran,
Additional Advocate General
assisted by
Mr.C.Jayaprakash,
Government Advocate

COMMON ORDER

The writ on hand has been instituted questioning the validity of the order dated 31.10.2016 issued by the 5th respondent.

2. The petitioner was a lessee, entered into an agreement for temporary occupation of the Government land for non-agricultural purposes. The writ petition has been instituted challenging the order claiming the arrears of land rent from the petitioner by the competent authority.

3. The writ petition has been mainly filed on the ground that the petitioner submitted an application seeking exchange of land and the said application was not considered.



WEB COPY

4. The learned Additional Advocate General on behalf of the State furnished a copy of the proceedings of the Principal Secretary and Commissioner of Land Administration in 16.03.2020, wherein the Commissioner of Land Administration rejected the request of the writ petitioner for exchange of land. The Commissioner of Land Administration in para 6 of the said order dated 16.03.2020 has stated as follows:-

“As per the prevailing rule provision, the character of Government lands classified as water body / watercourse should not be altered on ground reality. In the instant case, if the exchange of Government land is permitted, then there is a possibility of change of usage of such land, after due mutations are carried out in Revenue Records. Further, the alternate land, offered by the applicant is also not adhering to the Guidelines / Instructions issued for exchange of Government lands. In view of above conclusion, the request of the applicant of



W.P.Nos.43013 of 2016 and 14823 of 2020

exchange, the Government land measuring an extent of 2.28.5 Hectare in S.No.252/1 and 271 of Chennathur Village in lieu of exchange of their patta land is hereby rejected as devoid of merits.”

5. When the request of the petitioner has been rejected in the year 2020 and the said order remains unchallenged, the present writ petition deserves no merit consideration.

6. In respect of the arrears of lease rent, the petitioner is bound to settle the same, since he has utilised the Government property for setting up an industry, which is a profitable one. Thus, the petitioner has to pay arrears of lease rent, failing which, the authorities competent are empowered to recover the same in the manner known to law.

7. As far as the Government logs is concerned, periodical enhancement of lease rent has been taken by way of policy by the Government. In the event of long term lease by the Government in favour of a private person, the lease



rent has been fixed periodically, taking into consideration the market value or the market rent, as the case may be, is to be recovered from the lessee.

8. In the present case, the demand was made based on the Government policy and therefore, this Court do not find any infirmity in respect of the lease rents fixed by the competent authorities.

9. The learned Additional Advocate General appearing on behalf of the respondents has brought to the notice of this Court that the lease agreement dated 12.07.2002 entered into between the Government and the petitioner, more specifically clause (7) and clause (27) states as follows:-

“ 7. The Government reserve to themselves the right to enhance the rent, during the period of lease and the grant, is liable to cancellation if the grantee is not agreeable to pay the enhanced rent who so required.



W.P.Nos.43013 of 2016 and 14823 of 2020

27. When the lease has to renewed on its period of expiry, the lessee shall pay the lease amount, which may be tentatively arrived at by adding the percentage provisional increase in lease on the tentative valuation of land on an increase of 12% per annum to the lease year / reference year till its renewal / revision of rent that may be fixed.”

10. Where the Government resolved its rights to enhance the rents based on the Government policy and the lessee has accepted the said condition, there is no reason subsequently to raise objections regarding the fixation of rent. Now the arrears of rent demanded by the Government is to be paid by the petitioner, failing which further actions are to be initiated to recover the land rent.



W.P.Nos.43013 of 2016 and 14823 of 2020

11. Accordingly, the writ petitions stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

18.07.2023

skr

Index : Yes

Speaking order

Neutral Citation : Yes

To

1.The Special Commissioner and
Commissioner to Land Administration,
Chepauk, Madras – 600 005.

3.The District Collector,
Collectorate Road,
Krishnagiri, Tamil Nadu – 635 115.

4.The District Revenue Officer,
Krishnagiri District,
Collectorate Building,
Krishnagiri – 635 115.

5.The Tahsildar,
Hosur.



WEB COPY



W.P.Nos.43013 of 2016 and 14823 of 2020

S.M.SUBRAMANIAM, J.

skr

W.P.Nos.43013 of 2016 and 14823 of 2020

18.07.2023