IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.09.2023

PRONOUNCED ON : 27.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.25688 of 2021
and
W.M.P.No.27127 of 2021

M/s.Mahalakshmi Traders,
Represented by its Managing Partner
Mr.P.Jagannathan,
Indian Oil Dealers,
No.9/160 – A, E.B. Workshop Corner,
Mettur Dam, Salem – 636 401. ... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by Secretary Revenue Department,
Ministry of Revenue,
Fort St. George,
Chennai – 600 009.

2.The District Collector,
Salem – 636 001.

3.The Tahsildar,
Mettur Taluk,
Salem District – 636 401.

4.The Indian Oil Corporation Limited,
Represented by its Divisional Retail Head,
Salem Divisional Office,
No.234, 1st Floor, NH-7,
Sale – Bangalore Byepass Road,
Kondalampatti, Salem – 636 010. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents No.1 to 3 from in any manner interfering with the business of the petitioner in the name and style of “M/s.Mahalakshmi Traders” at Block No.9, TS No.2/1, Mettur, Salem.

For Petitioner	: Mr.S.Elambharathi
For R1 to R3	: Mr.R.Ramanlal Additional Advocate General IV Assisted by Mr.G.Krishna Raja Additional Government Pleader
For R4	: Mr.Vijay Mehanath For M/s.AAV Partners

ORDER

The writ of Mandamus has been instituted to forbear the respondents 1 to 3 from in any manner interfering with the business of the petitioner in the name and style of M/s.Mahalakshmi Traders at Block No.9, TS No.2/1, Mettur, Salem.

PETITIONER'S CASE:

2. The petitioner states that it is a partnership firm and he was appointed as a dealer to the retail outlet of the Indian Oil Corporation Limited at Mettur Town Ward A, Block 9, comprised in TS No.2/1. The petitioner was appointed as dealer with effect from 30.11.1987 and the petitioner has to pay the agreed rentals to the Indian Oil Corporation Limited, which in turn will remit the lease rent to the Public Works Department of the Government of Tamil Nadu.

3. The petitioner firm states that they have invested more than Rs.50,00,000/- to develop the retail outlet. They have modernised the retail outlet based on the agreement between the petitioner and the 4th respondent Indian Oil Corporation. While so, on 01.05.2019, the 3rd respondent closed the retail outlet on the ground of rental default. The demand notice was issued asking the Indian Oil Corporation and the petitioner to pay a sum of Rs.8,49,948/- towards rental arrears for the period from 17.09.2014 to 16.09.2017 and Rs.11,03,480/- towards the rental arrears for the period from 17.09.2018 to 16.09.2019. The petitioner paid a sum of Rs.3,00,000/-

initially towards the arrears of rent. Subsequently, on 11.09.2020, the 3rd respondent issued further demand notice to pay a sum of Rs.22,83,116/- towards rental arrears. Again the petitioner paid a sum of Rs.3,00,000/-. While so, on 27.09.2021, the 3rd respondent raised a demand of Rs.32,19,014/- and closed the retail outlet again on 29.10.2021. Immediately, the petitioner paid a sum of Rs.3,00,000/-. The 4th respondent / Indian Oil Corporation also had paid a sum of Rs.18,08,461/- towards rent from 01.06.2017 to 16.09.2021.

4. The petitioner came to understand that the revised rent was demanded based on the Government order issued in G.O.Ms.551, Revenue dated 25.08.2006. The lease rent was calculated at the rate of 14% per annum based on the Government order issued in G.O.Ms.No.460, Revenue Department dated 04.06.1998. The petitioner filed writ petition in W.P.No.29482 of 2017 to direct the respondents not to interfere with the business of the petitioner. This Court passed an interim order directing the respondents 1 to 3 to remove the seal affixed and granted liberty to issue a fresh notice to the 4th respondent or to the petitioners indicating the payment of arrears payable by them as on date. The 3rd respondent again issued a

demand notice based on the G.O.Ms.No.460, Revenue Department dated 04.06.1998 and the same was challenged by the petitioners in W.P.No.11492 to 11496 of 2018 and an interim order was passed. Petitioner was directed to pay 4% of the land cost as annual lease rent instead of 2% without prejudice till the disposal of the present writ petition.

5. The learned counsel for the petitioner mainly contended that the enhanced lease rent is exorbitant and the 4th respondent / Indian Oil Corporation is a lessee and they are distributing and supplying to the public in general and thus, the demand notice issued by the 3rd respondent is to be set aside. The 3rd respondent is repeatedly visiting the retail outlet and stopping the sales. Therefore, the petitioner is constrained to move the present writ petition seeking direction to forbear the respondents 1 to 3 from interfering with the business of the writ petitioner.

REPLY BY THE THIRD RESPONDENT:

6. The 3rd respondent filed a counter affidavit by stating that the Government orders issued to enhance the lease rent in respect of he Government properties across the 'State' is a public document and therefore,

the contentions of the petitioners that they are not aware of the enhancement of lease rent is incorrect. The land rate is fixed and collected according to the guideline value of the land in that area. The guideline value is fixed once in three years and consequently the lease rent in respect of the Government properties are also revised as per the guidelines. The respondents have increased the rent periodically once in three years according to the market value of the land. The respondents have stated the calculation of arrears of lease rent to be paid:

<u>Lease Arrear Amount</u>

S.No.	***Lease Period (17.09.2014 to 16.09.2017)***	***Amount***
1	(From the lease period 17.09.2014 to 16.09.2017) 3 years Lease amount Rs.10,71,952 x 3 years =	Rs.32,15,856/-
2	(Indian Oil Corporation by the Company paid the amount from 17.09.2014 to 16.09.2017) Lease amount for three years, Rs.7,88,636 x 3 years	Rs.23,65,908/- (-)
3	Indian Oil Corporation from the period (17.09.2014 to 16.09.2017) pending arrear amount	Rs.8,49,948
	2.Lease Fixation (17.09.2017 to 16.09.2020)	
1	Indian Oil Corporation by the Company paid the amount from 17.09.2017 to 16.09.2020) Lease amount for three years, Rs.11,03,480 x 3 years =	Rs.33,10,440
2	Indian Oil Corporation by the Company paid for the year 2017-2020	Rs.15,77,272 (-)
3	Pending amount for the periof 2017-2020	Rs.17,33,168
4	Indian Oil Corporation by the Company paid for the year 2020 as on 20.03.2020, 10.11.2020 and 09.11.2020	Rs.9,00,000 (-)

S.No.	*Lease Period (17.09.2014 to 16.09.2017)*	*Amount*
	Pending Amount for 2017-2020	**Rs.8,33,168**
	Indian Oil Corporation by the company paid the amount from 17.09.2020 to 16.09.2021 **is tentatively** fixed the amount of Rs.11,03,480 x 12% years = 12,35,898	**Rs.12,35,898**
	Total Arrear	**Rs.29,19,014**

7. For the period from 17.09.2020 to 16.09.2021, the lease amount is fixed tentatively 11,03,480 x 12% = Rs.12,35,898/-.

8. The petitioner petrol bunk is purely a commercial establishment. The petitioner used to purchase petrol and diesel from Indian Oil Corporation and sell the same with commission. The petitioner is making huge profit from and out of retail outlet. The petitioner is a dealer and selling petroleum product in retail and earning huge money through their bunk. Therefore, they cannot compare the other public activities done by the Government of India.

DISCUSSION:

9. The lease granted by the Government admittedly expired on 30.04.2022. The petitioner is continuously committing default in payment of

lease rent. Whenever a demand notice is communicated to the petitioner they are paying a meagre amount as arrears of lease rent only for the purpose of removing the seal affixed by the Government authorities and thereafter, not paying the lease rent punctually. Thus, the petitioner is a chronic defaulter in payment of lease rent.

10. Regarding non-payment of lease rent it is not denied by the petitioner. Contrarily they claim that they are doing social service by running retail petrol bunk. But the petitioner is M/s.Mahalakshmi Traders and they are purchasing petroleum products and diesel from the 4th respondent / Indian Oil Corporation and selling the same to the public on commission basis. Thus, the retail petrol bunk is earning huge profit for several years and not paying the rent.

11. The petrol bunk situates in a commercial area and in respect of the revision of lease rent, the Government is periodically issuing orders based on the guideline value prevailing in that particular locality. Based on the revised guidelines issued by the Government of Tamil Nadu, the lease rent is also to be revised in respect of the Government lands across the State of

Tamil Nadu. The petitioner and the 4th respondent had agreed on the lease conditions and in occupation of the land belonging to the Government of Tamil Nadu. While so, now they cannot turn around and claim that the rent claimed by the Government of Tamil Nadu is exorbitant.

12. The petitioner cannot approbate and reprobate in the matter of payment of lease rent to the Government of Tamil Nadu. It is a public revenue and loss, if any, will infringe the right of We People of India and thus, the Government Authorities are duty bound to recover the lease rent in respect of the Government properties. Even as per the Tamil Nadu Financial Code, the lease rent and dues to the Government of Tamil Nadu are to be recovered punctually by initiating all appropriate action by the Government Officials. Failure in this regard would result in financial loss to the State Exchequer and the Government may not be in a position to implement the Government welfare schemes for the benefit of the people at large.

13. Therefore, revision of lease rent, protection of Government properties and recovery of lease rent are of paramount importance and it is the constitutional duty of the Government Authorities to protect the interest

of the people as well as the financial affairs of the State.

14. In the present case, the lease period was admittedly expired. The petitioner earlier challenged the demand notices and based on the interim order, the seal affixed by the Revenue Authorities are removed. On such removal meagre amount of rent has been paid by the writ petitioner. Thus, the petitioner and the 4th respondent have no intention to settle the arrears of lease rent to the Government of Tamil Nadu.

15. The 4th respondent being an undertaking of the Government of India cannot commit such default in payment of lease rent. The Indian Oil Corporation being an undertaking is expected to be honest in the matter of honouring the lease conditions by paying the lease rent.

16. The learned counsel for the petitioner states that the 3rd respondent / Tahsildar has utilised the petitioner's petrol bunk for filling petrol in Government of Tamil Nadu vehicles. They have not paid the petrol charges for several months to the tune of about Rs.21,00,000/-.

17. However, it is for the petitioner to recover the said amount from the Government authorities in the manner known to law. By linking the issue regarding supply of petrol to the Government Vehicles, the petitioner cannot refuse to pay the lease rent as agreed between the parties. If at all the Government has not paid the petrol charges, it is for the petitioner and the 4th respondent to initiate action to recover the same in the manner known to law.

18. In alternate, the 4th respondent may negotiate the issues with the State Government authorities for the purpose of adjusting the petroleum charges due to the Indian Oil Corporation or the petitioner. Contrarily, the petitioner cannot refuse to pay the lease rent to the Government as per the lease conditions.

19. The lease of Government lands are granted under the provisions of the Revenue Standing Order (RSO) 24. RSO 24(A) imposes conditions, the RSO stipulates conditions for lease of Government lands. Admitting the conditions stipulated in the RSO, the petitioner accepted the lease and renewal of lease and therefore, the petitioner and the 4th respondent are

bound to pay the lease rent demanded by the Government of Tamil Nadu based on the revision of lease rent effected once in three years considering the guideline value of the land.

20. As per the Revenue Standing Orders, the annual lease rent shall be fixed 14% of the land cost and 13% of the surcharge thereon shall be fixed and collected. The penal interest at the rate of 12% per annum shall be collected for the belated payment of the lease rent. The petitioner have accepted the lease conditions stipulated in RSO 24(A) and continued to be in occupation of the Government premises and has been running a commercial retail petrol bunk.

21. That being the factum, the petitioner has not established any acceptable ground for the purpose of considering the relief. Accordingly, this Court is inclined to pass the following orders:

(1) The relief as such sought for in the present writ petition in W.P.No.25688 of 2021 stands rejected.

(2) Since the lease period had already expired, the petitioner is in unlawful occupation. Therefore, the respondents 1 to 3 are

directed to evict the petitioner from the premises or in alternate extend the lease on receipt of entire arrears of lease rent due to the Government of Tamil Nadu.

(3) The petitioner and the 4th respondent are directed to settle the entire arrears of lease rent due to the Government of Tamil Nadu within the period of one (1) month from the date of receipt of a copy of this order.

(4) In the event of failure, the respondents 1 to 3 are directed to recover the dues by following the procedures as contemplated under law.

22. With the above directions, this Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. However, there shall be no order as to costs.

27.09.2023

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

1.The Secretary,
Revenue Department,
The State of Tamil Nadu,
Ministry of Revenue,
Fort St. George,
Chennai – 600 009.

2.The District Collector,
Salem – 636 001.

3.The Tahsildar,
Mettur Taluk,
Salem District – 636 401.

S.M.SUBRAMANIAM, J.

Jeni

W.P.No.25688 of 2021

27.09.2023