



W.P(MD)No.18092 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.18092 of 2015

and

M.P.(MD)Nos.1 & 2 of 2015

and

W.M.P.(MD)No.3013 of 2021

The Ladies Recreation Club
No.1A, T.R.Naidu Street,
Thoothukudi-628 002,
Through its President,
M/s.Prema Paul
W/o.Mr.Paul

... Petitioner

Vs.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Tahsildar,
Thoothukudi District,
Thoothukudi.

3.The Government of Tamil Nadu
Rep. by its Secretary,
Revenue Department,
Fort St.George, Chennai.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the Impugned Order in Na.ka.No.A1/8930/15 dated 22.06.215 on the file of the 2nd Respondent and quash the same and further directing the Respondents to grant the extension of lease in considering the Petitioners representation dated 09.09.15.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.S.RA.Ramachandran
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The writ petitioner is a registered society. It has been in existence for over 90 years. The members of the petitioner society have been engaged in constructive activities. They have also been doing a bit of social work. The land on which the college is functioning was given on lease basis at concessional rent. The lease expired in the year 1996. A sum of Rs.60/- per year was being collected. Though the lease was not formally extended, the concessional rent continued to be remitted. While so, by the impugned communication, the petitioner has been called upon not



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only to surrender the premises but also to pay a sum of Rs.1,31,51,314/-. Challenging the said communication dated 22.06.2015, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

4. The District Collector, Tuticorin has filed counter affidavit and the learned Additional Government Pleader took me through its contents. The averments in the counter affidavit are as follows:-

“ an extent of 53 cents of G.R. natham land in Town survey No. 1120/2A2 in Block No.11 Ward 3 of Thoothukudi Town was leased out to the Ladies Recreation Club vide G.O.Ms.No.2374, Revenue Department, dated 03.01.1936 for a period of 30 years by fixing Rs.60 per year as lease amount considering that the petitioner's Recreation Club is a non commercial organisation. Subsequently, the lease period was extended vide G.O.Ms.No.548, dated 05.03.1968 for a further period of 30 years.”

Even though the proposal was sent in the year 1998 for further extension, the Government had not passed any order on the proposal.



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The Commissioner of the Land Administration had issued instructions in the year 1988 that the minimum lease amount to be collected from the public organization should be at the rate of Rs.600 per year. But the policy of the Government underwent a change in the year 2002. It was instructed that in respect of the lands leased out on long term basis, the lease amount has to be refixed once in three years by taking into account the prevailing market rate. The impugned demand has been made only by applying the aforesaid instruction issued by the Government. The learned Additional Government Pleader submitted that the impugned order does not call for interference and the writ petition is to be dismissed.

5. I carefully considered the rival contentions and went through the materials on record. The impugned communication sets forth two demands:-

(I) It calls upon the petitioner to pay a sum of
Rs.1,31,51,314/- towards rental arrears.

(II) Secondly, it calls upon the petitioner to hand over the possession of the premises.



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As rightly pointed out by the learned counsel appearing for the petitioner, the lease rent cannot be retrospectively refixed. There is considerable merit in the contention of the learned counsel appearing for the petitioner that when the Government had taken a conscious decision to lease out to non-commercial charitable organizations at concessional rate, so long as the character of the organization continues as such, there cannot be demand for payment of the rent on market value basis. It is true that the Government had issued instructions on 27.04.2002 vide letter No.6469/LD2(2)/2002-03 that the lease rent must be on market value basis when it is a long term one. But then, the petitioner must have been contemporaneously involved and given a choice. There is nothing on record to show that the petitioner was appraised of the change in Government's policy. The principle "ignorance of the law is no excuse" cannot be applied in such cases. It is true that in the year 2015, the petitioner had been put on notice. For the last eight years, this Court had been seized of the matter and the petitioner was also granted an order of interim stay. Therefore, the same cannot be put against the petitioner. Since it is not the case of the respondents that the petitioner has ceased to be a



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non-commercial organization, the demand for payment of lease rent arrears is set aside.

6. The next question is whether the petitioner can continue to insist that the respondents must extend the lease. The petitioner is obviously not ready to take the land on market value basis. Therefore, they cannot insist that they should be allowed to continue to enjoy the land. The petitioners will have to necessarily surrender possession. They are given five weeks to surrender possession. The matter cannot rest there.

7. The petitioner is an institution by itself. A group of women had come together to form an organization with the object of uplifting fellow women. While an organization like the petitioner cannot remain in private hands, the first respondent can very well consider maintaining the character of the premises as such by throwing open its door to every woman of Tuticorin. The first respondent can consider maintaining the building even as a heritage monument so that all the women of Tuticorin are able to access it



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freely. It can be used for reading purposes by the poor children during the evening hours. It is for the first respondent to decide. The petitioner can also submit a representation to the first respondent outlining their proposals in this regard and the first respondent is called upon to consider the same and give a formal disposal within a period of eight weeks from the date of receipt of such representation.

8. The Writ Petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

21.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Tahsildar,
Thoothukudi District,
Thoothukudi.

G.R.SWAMINATHAN, J.



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3.The Secretary,
Revenue Department,
Fort St.George, Chennai.

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