



W.P.(MD) No.22611 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.22611 of 2021

Bajirudeen

... Petitioner

/vs./

1.The Chief Divisional Manager,
Bharat Petroleum Corporation Limited,
No.1, Renganathan Gardens,
11th Main Cross Road,
Anna Nagar West,
Chennai 600 004.

2.The Territory Manager (Retail),
Bharat Petroleum Corporation Limited,
Trichy Retail Territory,
1st Floor, Raj Towers,
Near Kalaingar Arivalayam,
Karur Bypass Road,
Trichy -2.

3.The District Sales Officer,
Bharat Petroleum Corporation Limited,
MGM TB Sanitorium,
Thanjavur 613 401.

... Respondents



W.P.(MD) No.22611 of 2021

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to letter in proceedings TRT.TNJ.MUTHU.2021 dated 31.05.2021 of the 2nd respondent, quash the same as illegal and direct the respondents to pay the enhanced rental arrears of Rs.12,500/- per month from November, 2016 to till date for the petitioner's land in R.S.No.20/2 (as per Sub Division 20/2B) of Senganoor Village, Thiruvudaimaruthur Taluk, Thanjavur District.

For Petitioner : Mr.AN.Ramanathan

For Respondents : Mr.Natesh Raja

ORDER

The above writ petition is filed for the issue of a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings in No.TRT.TNJ.MUTHU.2021 dated 31.05.2021 of the second respondent, quashing the same as illegal and directing the respondents to pay the enhanced rental arrears of Rs.12,500/- per month from November, 2016 to till date for the petitioner's land in R.S.No.20/2 at Senganoor Village, Thiruvudaimaruthur Taluk, Thanjavur District.



W.P.(MD) No.22611 of 2021

WEB COPY

2.It is the case of the petitioner that he had leased out the property in R.S.No.20/0, measuring an extent of 9187.50 sq.ft., at Senganoor Village, Thiruvudaimaruthur Taluk, Thanjavur District under a lease deed dated 01.11.1996 for a period of 20 years on monthly rental of Rs.700/- with the refundable deposit of Rs.5,000/-. The lease was to run the retail petroleum unit of the respondent Corporation. The site was a vacant site, when it was given on lease to Maharban. The said Maharban had thereafter sold the property to one T.Subramanian under a registered sale deed dated 03.10.2009 and he in turn had sold the property to the petitioner herein, who is represented by his power agent before this Court. The sale in favour of the petitioner was on 14.10.2014.

3.When the property was purchased, the lease in respect of the land was to expire by 31.10.2016. Therefore, by letter dated 07.04.2016, the petitioner had requested the respondents to vacate the premises and hand over the vacant possession of the site to him. However, the respondents refused to vacate. Thereafter, negotiations were conducted and the respondents had agreed to enhance the rent to a sum of Rs.12,500/- per month with the lease period being extended by a further period of 20 years.



W.P.(MD) No.22611 of 2021

WEB COPY

4.It is the case of the petitioner that he had accepted the said offer by his response dated 28.06.2017 in and by which the lease was to be extended for a period of 29 years with a rental increase of 20% for every 5 years. Despite the acceptance, the respondents had not come forward either to enhance the rent or to vacate the premises and the petitioner sent several e-mails, to which there was no response from the respondents. On 24.05.2021, the petitioner had sent a complaint to the second respondent and in response to the same, the second respondent had sent a letter dated 31.05.2021 stating that they are taking sincere steps to pay the rent at the earliest. Thereafter, there has been an absolute silence on the part of the respondents.

5.The petitioner would state that the respondents are occupying an extent of 9187.50 sq.ft., on a mere rental of Rs.700/- per month. He would submit that on 19.11.2021, the respondent Corporation had sent a letter, wherein they had stated that since the land was being acquired by the National Highways Authority, they would not be in a position to operate the retail outlet and therefore, they are in the process of finalizing the new land for shifting the said retail outlet, which will be



W.P.(MD) No.22611 of 2021

carried out as early as possible and that they would be vacating at the earliest.

Therefore, the petitioner has been constrained to file the above writ petition.

6.A counter has been filed by the second respondent, in which it has been stated that the petitioner, which is a public sector undertaking, has made the following statement in their written statement.

“5.It is incorrect to state that the negotiation for rental was over and the respondent corporation has not paid the rent of Rs.12,500/-. As admitted by the petitioner himself in para 7 of the affidavit, the respondent corporation has not taken any final decision on fixing of rent and payment of same. The petitioner has not co-operated in submitting documents and for survey of land to ascertain the extent of land to be leased. In the meanwhile NHAI has acquired 8000 sq.ft., of land out of 9187.50 and the remaining extent is not feasible to run the retail outlet as per PESO norms. We have also sought for particulars of extent of land available for renewal of lease. Hence the monthly rental was not finalized. All the mails sent by the petitioner was duly replied by the corporation. But the petitioner did not fulfill the necessary requirements to finalize the monthly rental.”



W.P.(MD) No.22611 of 2021

WEB COPY

7. Nowhere in the counter has the respondents stated that they have vacated the premises. In the counter, the respondents would further submit that they were not able to move forward with the agreement entered into between the parties on 28.06.2017, as the following details had not been provided:-

“a) Production of all documents of title.

b) The agreed rentals shall be modified on pro-rata basis depending on final physical area of the site taken into possession by BPCL after due survey and measurements of the title.

c) The boundaries of the site shall be marked and demarcated jointly by the land owner and the representatives of BPCL.”

Therefore, they sought to have the writ petition dismissed.

8. Heard the learned counsels appearing on either side.

9. It is rather unfortunate that the respondent Corporation, who has agreed to pay the enhanced rent with an acceleration of 20% for every 5 years for a period of 29 years and who are already occupying the land since 1996, would state that the lease agreement had not been entered into, since the documents of



W.P.(MD) No.22611 of 2021

title had not been produced (they have already attained tenancy in favour of the petitioner), the measurement of the site and the area in the possession of the respondents after the acquisition had not taken place and that the boundaries of the site had not been marked out or demarcated.

10.The respondents have nowhere stated that the said request had been made by them and the petitioner had failed to comply with the same. On the contrary, it is seen that the petitioner had addressed several communications to the respondents, to which there has been no response and finally on 31.05.2021, the second respondent has stated that the respondent Corporation was exploring all actions to pay the rentals. Even in this letter, there is no mention that the petitioner has not complied with the request made for documents, measurements etc. Therefore, the impugned letter, which has been issued nearly 4 years after the agreement had been entered into between the parties and based upon which the respondents were continuing to run its retail unit in the premises, has to necessarily be set aside and is accordingly set aside. The respondents are directed to comply with the agreement entered into pursuant to the negotiations and therefore, they shall pay a sum of Rs.12,500/- per month from 31.10.2016 to



W.P.(MD) No.22611 of 2021

31.10.2021, which is the date according to the petitioner, the property had been acquired by the land acquisition authorities within a period of 8 weeks from the date of receipt of a copy of this order. They shall continue to pay proportionate rent for the remaining extent thereafter till the possession is handed over. The arrears shall be paid deducting whatever the amount that has already paid.

11.In fine, the Writ Petition is allowed. However, there shall be no order as to costs.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
mm

27.04.2023



WEB COPY



W.P.(MD) No.22611 of 2021

P.T.ASHA, J.

mm

W.P.(MD) No.22611 of 2021

27.04.2023