



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.4030 of 2021

and

W.M.P. No. 4606 of 2021

K. Nandagopal S/o. A. Kuzhandhaivelu

... Petitioner

Vs.

1. The District Collector,
Vellore District,
Vellore.

2. The Revenue Divisional Officer,
Vellore District, Vellore.

3. The Tahsildar,
Vellore District, Vellore.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 1st respondent pertaining to the proceedings in Na.Ka.B2/11699/2016 dated 21.09.2020 and to quash the same.



For Petitioner : Mr. V. Karthik, Senior Counsel for
Mr. Adithya Varadarajan

For Respondents : Mr. T. Arunkumar
Additional Government Pleader
[for R1 to R3]

ORDER

The inter-departmental communication between the District Collector, Vellore and Tahsildar, Vellore in proceedings dated 21.09.2020 is sought to be quashed in the present writ petition.

2. The writ petitioner is running a textile shop in the name of “The Chennai Silks and a jewellery shop in the name of “Sri Kumaran ThangaMaligai”. The shops are constructed in the Patta land. Adjacent to the petitioner's commercial buildings, Government Poromboke land classified as “Battai and Canal” in T.S.No.3187 to an extent of 0.0587.0 Square Meter situated in west side and a canal maintained by Vellore Corporation flowing from south to north direction. The petitioner/The Chennai Silks had requested by an application dated 25.07.2016 for grant of lease in the said T.S.No.3187 to an extent of 0.0587.0 Square Metre Battai/Canal poromboke land for the purpose of two wheeler parking for the above textile shop and jewelery shop.



WEB COPY

3. It is not in dispute between the parties that the Government has not granted any lease in favour of the petitioner and enter upon permission was granted by the Authorities and based on the said permission, the petitioner is in occupation of the Government land classified as “Battai and Canal”. Canal is a water body, which cannot be normally used for other purpose other than the purpose for which the canal is provided. Based on the enter upon permission, the petitioner has developed the area by putting up constructions/pipes for the purpose of maintaining the Government property as parking area.

4. Learned Senior Counsel appearing on behalf of the petitioner, Mr.V.Karthik would submit that the petitioner has invested substantial amount for the purpose of developing the portion of the Government land and using the same as parking area for the benefit of the customers attending the textile shop and jewellery shop. The petitioner is paying rent and the respondent has issued the impugned order enhancing the rent, which is exorbitant and thus, the present writ petition came to be instituted.



WEB COPY

5. The learned Senior Counsel appearing for the petitioner would submit that as per R.S.O. 24-A, the District Collector has no Authority to sanction, if the lease amount is more than Rs.50,000/-. In such circumstances, the Government is the Competent Authority for enhancement of lease rent and therefore, the impugned order is in violation of R.S.O. 24-A. It is further contented that the petitioner is not utilising the Government land for any other purpose other than using the same as parking area. They have cleaned up the entire location and made it usable for the public benefit, the exorbitant rent now fixed by erroneously assessing the market value is to be set aside.

6. Mr.T.Arunkumar, the learned Additional Government Pleader would oppose the said contention by stating that the petitioner is not a lessee. The Government has not granted any lease. Initially, the rent was fixed based on the Government Order and subsequently, Government took a policy decision to enhance the rent, in respect of Government properties across the State of Tamil Nadu. As per the Government policy, the market value of the land is to be assessed by the Competent Authority and 14% of the market value is to be recovered as rent in respect of all the Government



properties. Accordingly, the District Collector has sent a letter to the Tahsildar, Vellore through impugned proceedings dated 21.09.2020, which is under challenge in the present writ petition.

7. The enhanced rent was fixed based on the Government order and the petitioner is only a permissive occupant and not a lessee. Therefore, have no locus to seek exemption from paying the revised rent fixed by the Authorities in consonance with the Government orders. Thus, the writ petition is to be rejected.

8. Considering the arguments as advanced between the learned Senior counsel for the petitioner and the learned Additional Government Pleader, the petitioner admittedly is not a lessee. The rent was fixed, since the petitioner was permitted to enter upon the Government land temporarily. Therefore, certain improvements made in the Government land at the instance of the petitioner cannot be a ground to seek any lease/extension of permission or reduction of rent etc., The Revenue Standing Order 24-A will not be applicable in the present case in view of the fact that the petitioner is not a lessee, since no lease agreement was



executed between the parties and more so, the impugned order is an inter-departmental communication between the District Collector and Tahsildar dated 21.09.2020. The impugned communication was not even communicated to the petitioner.

9. However, the Tahsildar has subsequently issued a demand notice dated 29.10.2020 to the writ petitioner stating that the tentative rent has been fixed as Rs.44,45,958/-. Referring the impugned letter, the Tahsildar made a demand, thus, the petitioner has chosen to file the present writ petition.

10. Since no lease has been entered into between the Government and the petitioner, the petitioner cannot claim any right over the Government property. Pertinently, the subject property is classified as Canal, ie., a water body, which cannot be alienated or assigned by the Government in view of the judgment of the Hon'ble Supreme Court of India and the High Court of Madras in catena of cases. Water bodies are to be preserved by the Government for protecting the water resources and canals meant for sewage purpose are to be utilised for the purpose for which such



canals are existing. Maintenance of sewage especially in cities like Vellore is of paramount importance and such water bodies cannot be alienated or assigned in favour of private persons, since the Authorities cannot have any control over such water bodies, if such sewage canals are leased out.

11. Enhancement of rent is the policy decision of the Government and the Government Authorities are empowered to ascertain the prevailing market value (realistic) and accordingly, fixed 14% of the market value as rent. In the present case, the District Collector with the assistance of Tahsildar, determined the prevailing market value in that locality and accordingly demanded tentative rent from the petitioner. Such an assessment made cannot be construed as infirm. Since, the petitioner is not a lessee and in occupation of the Government land classified as “Battai and Canal” based on the enter upon permission granted, the petitioner cannot claim any right over the Government property. Enhancement of rent is the policy decision made by the Government in the interest of public and to protect the public revenue. Government properties are to be protected by the Competent Authorities and rent/user damages from the said Government



properties are to be recovered by the Competent Authorities without any lapse or negligence.

WEB COPY

12. In the present case, the impugned order dated 21.09.2020 would reveal that a tentative rent has been fixed based on the market value and consequently, a demand notice was issued. It is the choice of the petitioner to pay the rent or to vacate the Government land and handover the vacant possession to the Government Authorities. Even in such circumstances, the Authorities are empowered to recover the arrears of rent by following the procedures as contemplated under the statutes and rules in force. Since no lease has been granted in favour of the petitioner, application of R.S.O.24-A would not arise at all. Even in such circumstances, the impugned order issued by the District Collector dated 21.09.2020 itself would reveal that such tentative rent is fixed subject to the orders to be passed by the Government.

13. Therefore, the petitioner has not established any acceptable ground for the purpose of granting the relief as such sought for in the present writ petition. The respondents are bound to initiate all appropriate



W.P.No.4030 of 2

actions to recover the rent/user damages to protect the Government land and the State revenue. With these directions, the writ petition stands dismissed.

No Costs. Consequently, connected miscellaneous petition is closed.

06.02.2024

veda

Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no

To

1. The District Collector,
Vellore District,
Vellore.

2. The Revenue Divisional Officer,
Vellore District, Vellore.

3. The Tahsildar,
Vellore District, Vellore.



WEB COPY

W.P.No.4030 of 2



S.M.SUBRAMANIAM, J.

veda

W.P.No.4030 of 2021

06.02.2024
(2/2)