



WA No.1689 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2024

CORAM

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

WA No.1689 of 2021

M/s.Ascenders Technologies Pvt Ltd.,
rep. By its Director Dr.K.Thirugnanam : Appellant

versus

1.The General Manager,
NSIC Software Technology Park,
Sector B-24, Guindy Industrial Estate,
Ekkaduthangal, Chennai 32

2.The Estate Officer,
NSIC Ltd., NSIC Bhavan,
Okhla Industrial Estate,
New Delhi 20

: Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge in WP No.13145 of 2020 dated 09.02.2022.

For the Appellant : Mr.D.Selvam,
for Mr.D.Vijayakumar

For the Respondents : Mr.Ajoy Kumar Gnanam



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JUDGMENT

(Delivered by D. KRISHNAKUMAR, J.)

The appellant has filed writ petition in WP No.13145 of 2020 challenging the notice dated 01.03.2019 calling upon the appellant to pay a sum of Rs.20,43,160/- with regard to the dues relating to the period from 16.02.2015 to 21.07.2018.

2. According to the appellant, the first respondent had collected huge amounts towards additional electricity charges for using the diesel generator power. Subsequently, the first respondent issued a legal notice dated 20.07.2017 calling upon the appellant company to pay a sum of Rs.11,74,806/- as arrears of license fee and other maintenance charges. Aggrieved by the same, on 18.08.2017, the appellant claimed refund of excess collection towards additional electricity charges and other charges and the appellant company requested the first respondent to allow them to vacate the premises. But, the first respondent (NSIC) did not permit the appellant to vacate the said premises and forced them to occupy the premises for an additional seven months. Therefore, the appellant company is not



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liable to pay any license fee or other maintenance charges from the month of February, 2018. Finally, the appellant was allowed to vacate the premises on 21.07.2018. But the first respondent demanded rental and other charges for such period i.e., from February 2018 to July 2018. The first respondent again issued a show cause notice under Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (for short, 'the Act of 1971') and directed the appellant company to pay the outstanding dues for a sum of Rs.20,43,160/- including the nil business period. According to the appellant, the appellant appeared for inquiry and raised its objections. However, without giving any opportunity to the appellant, the impugned order dated 01.03.2019 was passed, directing the appellant company to pay a sum of Rs.20,43,160/- with regard to the dues relating to module occupied from 16.02.2015 to 21.07.2018. Challenging the same, the appellant filed writ petition, seeking to quash the said proceedings.

3. The Writ Court had gone into the merits of the case and rejected the claim made by the appellant, by holding that the appellant did not produce any material before the Writ Court to



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substantiate its case that the amount claimed has already been paid. Accordingly, the writ petition was dismissed. Challenging the said order, the present intra-court appeal has been preferred.

4. Learned counsel for the appellant contended that the disputed facts raised by the appellant have not been considered by the Writ Court and therefore, he seeks for setting aside the order.

5. Learned counsel for the respondents would submit that if the appellant is aggrieved by the order passed under Section 7 of the Act of 1971, alternate remedy is available to the appellant to file an appeal before the District Judge under Section 9 of the Act of 1971. However, without exhausting the appeal remedy available to it, the appellant has straightaway knocked the doors of this Court by filing the writ petition. Disputed facts cannot be gone into by Writ Court under Article 226 of the Constitution of India. Therefore, the appellant is not entitled for any relief. Learned counsel sought for sustaining the order passed by the learned Single Judge.



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6. We have heard both sides and perused the materials available on record. The impugned notice is issued under Section 7 of the Act of 1971. The said notice was challenged by the appellant in the writ petition. The appellant disputes the arrears amount of Rs.20,43,160/-. Indeed, the appellant sought for refund of excess collection made by the respondents in respect of additional electricity charges. Disputed facts cannot be gone into in a writ petition. The Hon'ble Supreme Court and this Court, in an umpteen number of cases have held that disputed facts cannot be decided in a writ petition based on affidavit evidence in a summary proceedings.

7. It is not that the appellant is left without any remedy. An appeal could very well be filed under Section 9 of the Act of 1971. Without availing the said alternate remedy, writ petition could not be entertained.

8. The appellant is permitted to file an appeal before the District Judge concerned under Section 9 of the Act of 1971 within thirty days from the date of receipt of a copy of this judgment. If any such appeal is preferred within the time granted by this Court, the



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learned District Judge is directed to entertain the appeal and dispose of the same in accordance with law; as expeditiously as possible, preferably within four months from the filing of the appeal. The learned District Judge shall take a decision without being influenced by any of the observations made in this judgment.

9. The writ appeal stands disposed of. There shall be no order as to costs. Consequently, CMP No.11694 of 2022 is closed.

(D.K.K., J.) (K.B., J.)
25.06.2024

Index : Yes/No
Neutral Citation : Yes/No
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