



W.P.No. 22354 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.22354 of 2023

and

W.M.P.Nos.21734 and 21736 of 2023

M/s.Sare Shelters project Pvt.Ltd.
(Formerly known as Sare Jubilee Shelters
Pvt Ltd),
Represented by its authorized Signatory,
Mr. Srinivasan P.S
Crescent Parc Dewy Terraces Project
Ward No.6, Thiruporur Village,
Thiruporur Taluk, Chengalpattu District
Pincode 603 110. .. Petitioner

Versus

1. The Additional Secretary to Government,
Hindu Religious and Charitable
Endowments Department,
Fort St George, Chennai

2. The Commissioner,
Hindu Religious and Charitable
Endowments Department, Chennai.

3. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department, Chennai.



W.P.No. 22354 of 2023

4. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department, Chennai.
5. The Executive Officer,
Arulmighu Kandaswamy Temple,
Tiruporur.
6. M/s. Sowbagya Co-operative
Housing Society Ltd.,
Plot No.1379C, Door No. 15 C,
Golden Villa, I Block, Vallalar Kudiyrupur
18th Main Road, Anna Nagar West,
Chennai – 600 040.

...Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the entire records on the file of the first respondent ending with G.O.M.S.No.120 dated 30.08.2019 and consequential letter No.12719/a.ni.3-2/2019-1, dated 11.11.2019 of the first respondent and quash the same and consequently direct the 5th respondent to refund a sum of Rs.3,46,08,827/-(Rupees Three crores Forty Six Lakhs Eight Thousand eight hundred and twenty seven only) being the excess rent adjusted by the 5th respondent even after deemed possession of the bye pass road area taken over by National Highways and Security Deposit also with interest at the rate of 7.75% from 12.10.2014 to till the date of realization and pass orders.



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W.P.No. 22354 of 2023

For Petitioner : Mr.T.M. Pappiah

For Respondents :Mr.N.R.R. Arun Natrajan
Special Government Pleader

ORDER

This petition is filed to issue a writ of Certiorarified Mandamus calling for the entire records on the file of the first respondent ending with G.O.M.S.No.120 dated 30.08.2019 and consequential letter No.12719/A.NI.3-2/2019-1, dated 11.11.2019 of the first respondent and quash the same and consequently direct the 5th respondent to refund a sum of Rs.3,46,08,827/-(Rupees Three crores Forty Fix Lakhs Eight Thousand eight hundred and twenty seven only) being the excess rent adjusted by the 5th respondent even after deemed possession of the by pass road area taken over by National Highways and Security Deposit also with interest at the rate of 7.75% from 12.10.2014 to till the date of realization and pass orders.

2. Brief facts necessary for the disposal of the writ petition is as follows:-



W.P.No. 22354 of 2023

WEB COPY

2.1. The case of the petitioner is that the 5th respondent herein executed a registered lease agreement deed vide Document No.6366 of 2010 dated 26.08.2010 in the office of the SRO, Tiruporur jointly in favour of the petitioner and the 6th respondent whereby the 5th respondent has leased out an extent of 5.90 acres, comprising in S.Nos. 84,85,74/1,77 246/6 & 181/ 1A2B. The very purpose of the lease agreement is to form a approach road for the residents of that particular area. One of the terms of the lease is that the petitioner should deposit a sum of Rs.2,06,50,000/- as security deposit which is equivalent to the market value of the above said land as per Government Guideline Value towards one time interest free Security Deposit and Rs.18,00,000/- towards donation to Arulmigu Kandasamy Temple towards its development. The petitioner also complied with the same. The terms of the lease is that the said security deposit should be adjusted towards rent which is equivalent to Rs.1,33,365/- per month and Rs.16,00,375/- per annum. The lease period is only for 3 years i.e from 16th August 2010 to 15th August 2013. The sum and substance of the case is that the Government in the year 2011 itself started acquiring lands for proposed extension of six lane IT corridor express highway adjacent to the Layout



W.P.No. 22354 of 2023

and in the said process the subject lands got approach road and there is no needs to form the approach road for the leased properties.

2.2. However, the petitioner was not able to complete the work within the period mentioned in the lease agreement. Hence they gave a representation to the Joint Commissioner on 05.08.2013/ 3rd respondent for extension of lease and there was no response. Due to which another representation was given to the second respondent on 03.10.2013. To reply to the said representation the 5th respondent sent a notice on 28.10.2013 wherein they have claimed a sum of Rs.2,06,50,000/- towards monthly usage, the said claim is illegal as there is no such term in the lease agreement. Aggrieved over the same, the petitioner sent a reply on 30.11.2013. Pursuant to which the 3rd respondent issued summons to the petitioner in Na.Ka.No.9363/2012/E1 on 13.01.2014 and the petitioner also appeared and established his case with all the relevant documents. However, the 3rd respondent passed adverse order against the petitioner on 27.02.2014 in Pro.Rc.No.9363/2013/C1. Challenging the same, the petitioner preferred Revision Petition before the Commissioner in R.P.No.63/2014 and the same was dismissed on 10.10.2014. Hence, the



W.P.No. 22354 of 2023

petitioner preferred a Revision Petition before the R.P.No.2 of 2015 before the Additional Chief Secretary to Government, Hindu Religious and Charitable Endowments, Chennai who has rejected the claim of the petitioner Vide G.O.Ms.No.120 dated 30.08.2019, which was also challenged in a Review petition before the first respondent and the same was also rejected by letter No.12719/AN3-2/2019-I on 11.11.2019. Hence, this petition.

3. The learned counsel appearing for the petitioner submitted that the respondents failed to note that the alternate lands belonging to the petitioner were acquired for road widening and the fortunate thing is that in view of road widening, the said road will become the approach road for the layout. It is also pertinent to note that the acquisition proceedings were initiated in the year 2011 itself. He further submitted that the petitioner has approached all the authorities as per the hierarchy, which ended in vain. Hence, prays to allow this petition.

4. The learned Special Government Pleader filed a status report wherein it was stated that on 30.08.2023 the learned counsel for the



W.P.No. 22354 of 2023

petitioner submitted that the lease amount of Rs.2,06,50,000/- shall be adjusted as final settlement, towards the rental arrears. It was further stated that the Commissioner, HR&CE, Chennai in a letter No.Na.Ka.71251/2023/V2/dated 09.10.2023 addressed to the Special Government Pleader stated that the deposit amount of Rs.2,06,50,000/- cannot be adjusted as final settlement towards the rental arrears payable by the petitioner. Since, it may cause huge revenue loss to the temple. Hence, in the interest of the temple had directed to take steps to recover the rental arrears of Rs.16,80,30,033/- from the petitioner.

5. Heard both sides and perused the materials available on record.

6. On a perusal of the impugned order passed by the First respondent and considering the facts and circumstances of the case, this Court is of the considered opinion that the First respondent can re-appreciate the documents submitted once again. Therefore, the order passed by the first respondent in G.O.M.S.No.120 dated 30.08.2019 and consequential letter No.12719/a.ni.3-2/2019-1, dated 11.11.2019 is



W.P.No. 22354 of 2023

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hereby set aside and the matter is remanded back to the First respondent for fresh disposal as per law. The First Respondent/The Additional Secretary to Government, Hindu Religious and Charitable Endowments Department, Fort St George, Chennai is directed to give adequate opportunity for both sides and pass orders on merits within a period of twelve weeks from the date of receipt of a copy of this Order.

8. With the aforesaid direction, this writ petition is disposed of. No order as to costs. Consequently, the connected miscellaneous petitions are closed.

25.07.2024

Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
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W.P.No. 22354 of 2023

To
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Endowments Department,
Fort St George, Chennai

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Hindu Religious and Charitable
Endowments Department, Chennai.

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