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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.33636 of 2017

and

W.M.P.No.37219 of 2017

M/s.Aspinwall & Co.Ltd.,
Represented by its Authorized Signatory,
J.Jebachandran,
No.48 Rajaji Salai,
Babu Mansion, 5th Floor,
Chennai – 600 001.

... Petitioner

Vs.

- 1.The Government of India,
Ministry of Shipping (Ports Wing),
Transport Bhawan,
New Delhi – 110 001.
- 2.The Chennai Port Trust,
Represented by its Chairman,
No.1, Rajaji Salai, Chennai – 600 001.
- 3.The Traffic Manager,
Chennai Port Trust,
No.1, Rajaji Salai, Chennai – 600 001.
- 4.The Estate Officer,
Chennai Port Trust,
No.1, Rajaji Salai,
Chennai – 600 001.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the proceedings bearing Ref.No.C4/881/2010/T dated 29.08.2017 of the 4th respondent herein and quash the same.

For petitioner : Ms.S.Meenakshi
For R1 : Mr.T.V.Krishnamachari
Senior Panel Counsel
For R2 to R4 : Mr.S.Haja Mohideen Gisthi

ORDER

The order dated 29.08.2017 passed under Sub-section (1) and (2-A) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as 'the Act') is under challenge in the present writ proceedings.

2. The petitioner/company is a licensee carrying on business in handling of cargo in various ports across the country including the Chennai Port Trust. The petitioner/company has availed storage space on license basis from Chennai Port Trust from time to time. In this regard, a lease agreement was entered into between the petitioner/company and the Chennai Port Trust. It is not in dispute that the petitioner/company has vacated the premises on



30.11.2007 and handed over the vacant possession to the Competent Authorities of Chennai Port Trust. Further, it is not in dispute that the land policy of the year 2004 for major ports was notified by the Government of India. Accordingly, the rent originally fixed was enhanced by the Estate Officer and notice was issued to the occupants of Chennai Port Trust buildings. Such notice was issued to all the allottees on 01.12.2008. The petitioner/company had committed default in payment of rent and therefore, such notice was also issued to the petitioner/company also. The statement of arrears of rent to be paid to Port Trust also communicated to the defaulters along with the notice dated 01.12.2008. Since the petitioner/company has failed to settle the rental arrears, further advice was issued to remit the arrears of bills *vide* letter dated 29.06.2012. Similar letters were communicated to the petitioner/company on some occasions and final action was initiated under the provisions of the Act. The Estate Officer in exercise of the powers conferred under the Act passed the impugned order stating that the petitioner/company required to pay the arrears of rent together with applicable interest on or before the expiry of 15 days from the date of receipt of a copy of the impugned order and the said order came to be challenged in the present writ proceedings.



3. The learned Counsel for the petitioner/company Ms.S.Meenakshi would contend that the land policy of the year 2004 cannot be applied retrospectively, so as to claim rent from the year 2002. Thus, the calculation statement enclosed along with the notice of the year 2008 is erroneous. The enhancement of rent was not calculated properly and exorbitant rent with retrospective effect is calculated and thus, the impugned order is to be set aside.

4. Mr.S.Haja Mohideen Gisthi, the learned Counsel appearing on behalf of the Port Trust would oppose the said contention by stating that the several notices were issued to all the allottees including the petitioner, who committed default in payment of rent as per the land policy and by calculating all arrears of rent due to the Port Trust, statements were issued to the defaulters including the petitioner/company. Since the petitioner/company failed to settle the bills, action was initiated under the provisions of the Act.



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5. The petitioner/company vacated the Port Trust premises on 30.11.2007 and the arrears of rent to be settled were calculated based on the said date. If at all, any mistake or error has been identified in the statement, the Estate Officer has to verify the same and communicate a fresh statement of arrears of rent to be settled by the petitioner/company to the Port Trust. The petitioner/company is also at liberty to submit their objections on the statement of arrears communicated to them. If any objections are received, the same also may be considered for the purpose of arriving a final amount of arrears to be settled to the Port Trust. Such an exercise may be completed by the Estate Officer within a period of 2 weeks from the date of receipt of a copy of this order. The petitioner/company is at liberty to submit their objections within a period of one week from today i.e., 31.01.2024.

6. As far as the impugned order is concerned, this Court do not find any infirmity, since the petitioner/company had committed default in payment of rent and the notices sent by the Port Trust were not responded. Therefore, the actions initiated by the Port Trust are in consonance with the provisions of the Act and in respect of any discrepancies in calculation, the same alone shall be verified and the final amount arrived by the Estate



Officer must be settled by the petitioner/company, failing which the respondents are at liberty to proceed further by following the procedures to recover the entire arrears of rent in the manner known to law.

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With these directions, the Writ Petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

31.01.2024

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Index : Yes / No

Speaking order / Non-Speaking Order

Neutral Citation : Yes / No

To

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