



W.P(MD)No.622 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.622 of 2024

and

W.M.P.(MD)Nos.627, 630 & 631 of 2024

K.Amutha

... Petitioner

Vs.

1.The Regional Officer,
National Highways Authorities of India,
Madurai-625 007.

2.The Project Director,
National Highways Authorities of India,
No.54, Natarajapuram North Colony,
Medical College Road,
Thanjavur-613 004.

3.M/s.Trichy-Thanjavur Expressways Ltd.,
Rep. by its Authorized Signatory,
Madhucon,
Madhucon House,
1129/A, Road No.36, Hitec City Road,
Jubilee Hills, Hyderabad.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order of the 2nd respondent in No.NHAI/PIU/Thanj/11015/108/2023/031 dated 04.01.2024 and quash the same.



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For Petitioner : Mr.K.Baalasundharam
Senior Counsel
for Mr.S.Ramsundarvijayraj

For Respondents : Mrs.J.Padmavathi Devi
for R1 & R2
: No appearance for R3

ORDER

Heard both sides.

2. The petitioner is running a hotel in Trichy-Thanjavur Expressways. The petitioner was inducted as a lessee by the concessionaire / R3. The stand of NHAH is that the concession agreement executed in favour of R3 was terminated as early as on 17.03.2023. NHAH would contend that in view of the termination of concession agreement, the lease agreement also cannot survive. The petitioner was called upon to vacate. Aggrieved by the same, the petitioner filed O.S.No.140 of 2023 before the Additional District Munsif Court, Thanjavur. The petitioner also filed I.A.No.294 of 2023 and obtained an order of interim injunction in her favour.

3. The learned senior counsel appearing for the petitioner categorically states that interim order is still in force. In the meanwhile, the second



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respondent had issued the impugned communication dated 04.01.2024 calling upon the petitioner to hand over the possession of the premises in question.

Challenging the same, the present writ petition came to be filed.

4. When the jurisdictional civil Court had granted an interim order in favour of the petitioner and the same is also holding good, it is not open to the second respondent to overreach the same by issuing a fresh order. The suit filed by the petitioner will not become infructuous, merely because a fresh order dated 04.01.2024 has been issued calling upon the petitioner to vacate the premises. The learned standing counsel for NHAI would categorically assert that the lease executed in favour of the petitioner cannot survive the termination of the concession agreement. If that be so, it is for NHAI to apply for vacating the interim order. If according to the NHAI, the Civil Court has no jurisdiction in the matter, remedy is to file a CRP before the High Court under Article 227 of the Constitution of India. Instead of availing such remedies, NHAI has chosen to render the suit as infructuous by issuing a fresh eviction notice. Such course of action cannot be permitted. The impugned order shall be kept in abeyance. It will abide by the outcome of the development in the civil suit instituted by the petitioner. At this stage, the learned standing counsel points out that for the last several months, the petitioner has not paid the license fee /



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lease rent. The learned senior counsel would state that the third respondent is a landlord and that therefore, the question of paying rent to NHAI will not arise at all. I cannot countenance such a stand. The property does not belong to the concessionaire. The property belongs to NHAI. Therefore, the petitioner has to remit the rental arrears to the credit of the suit on or before 15.03.2024. The arrears will be computed from the date of termination of the concession agreement. The petitioner will continue to remit the monthly rental arrears to the credit of the suit. NHAI can withdraw the amount so deposited by the petitioner. The rights of the petitioner will abide by the outcome of the suit.

5. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
rmi



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