



WP(MD)No.18639 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

RESERVED ON : 28.06.2023

PRONOUNCED ON : 14.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.18639 of 2013
and
MP(MD)No.1 of 2013
and
WMP(MD)No.15242 of 2018

Sri Ram Nallamani Yadavar Magalir
Higher Secondary School, Thiruppalai,
Madurai, through its Secretary
N.Rajendran

: Petitioner

Vs.

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The District Revenue Officer,
District Collector Office Campus,
Madurai.
- 3.The Revenue Divisional Officer,
District Collector Office Campus,
Madurai.



WP(MD)No.18639 of 2013

4.The Tahsildar,
Madurai North Taluk,
Madurai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records relating to the order of the first respondent in Na.Ka.No.J1/61235/2003 dated 13.05.2013 and 19.06.2013 confirming the order of the second respondent in Na.Ka.No.109948/01/J1 dated 14.06.2011 and quash the same.

For Petitioner : Mr.P.T.S.Narendravasan

For Respondents: Mr.J.Ravindran,
Additional Advocate General
Assisted by
Mr.S.Saji Bino,
Special Government Pleader

ORDER

This writ petition is filed against the order dated 13.05.2013 passed by the first respondent, confirming the enhancement of lease amount by the second respondent dated 14.06.2011. The petitioner also challenged the consequential demand notice dated 19.06.2013 .



WP(MD)No.18639 of 2013

WEB COPY

2.The petitioner is a School established in the year 1984 to provide education to Students from nearby villages and the School was upgraded to Higher Secondary in the year 1988 with the present strength of around 1500 students. The petitioner School was granted with lease for the Government Poramboke land in S.No.6/1 to an extent of 4 Acres 96 Cents vide G.O.Ms.No.814, Revenue Department, dated 02.09.1997, for nine years on annual rent basis. The lease was further extended for a further period of 15 years through G.O.No.109948/2001/J1 dated 14.06.2001. The annual lease amount was also fixed once in three years periodically. While so, the second respondent, by his proceedings dated 14.06.2011, fixed the lease amount for the period from 02.09.2009 to 01.09.2012 as Rs.11,35,344/-. As against the same, the petitioner preferred an appeal before the first respondent and filed WP(MD)No.14739 of 2011 before this Court to dispose of the appeal. This Court, by order dated 10.01.2013, directed the first respondent to dispose of the appeal in 4 weeks. Pursuant thereto, the first respondent passed the impugned order dated 13.05.2013 confirming the fixation of lease amount.



WP(MD)No.18639 of 2013

WEB COPY

3.Learned Counsel appearing for the petitioner submitted that the petitioner School was established in the year 1984 for the purpose of providing education to the economically backward children and they are not receiving any donation from the Students. They are running the Institution on philanthropic basis and without considering the same, an exorbitant amount has been fixed as rent for the lands given to the Institution. He further submitted that the State has to provide education to all, but they are not in a position to cater the needs of every citizen and therefore, the then Honourable Chief Minister has proposed to provide aid to the Institutions with a condition that they have to collect the tuition fee, as prescribed. The petitioner Institution is one such Institution imparting education to poor and downtrodden. Further, the first respondent / appellate authority before revising the amount has not provided any opportunity to the petitioner to put forth their case, which is in violation of principles of natural justice. Therefore, the impugned order is liable to be set aside.



WP(MD)No.18639 of 2013

4.Learned Additional Advocate General appearing for the State submitted that the lands in S.No.6/1 to an extent of 4 acres 96 cents were leased out to the petitioner Institution in the year 1997, on a condition that this petitioner has to pay the lease amount as per the prevailing market value and that the same would be revised once in three years, depending upon the market value. The petitioner has submitted a representation to the respondents for reduction of the lease amount and also filed a writ petition in WP(MD)No.14739 of 2011. This Court, by order dated 29.11.2011, has disposed that writ petition with a direction to consider the petitioner's representation. The representation of the petitioner for reducing the lease amount was rejected by the respondents and the petitioner was directed to pay the arrears immediately.

5.He further submitted that the lease amount has been fixed as per the Revenue Standing Order-24A which contemplates fixing of lease rent for non-commercial purpose at 1% of the market value exclusive of local cess and local cess surcharge for non-remunerative purpose at the rate of 6% of the market value. The market value was fixed based on the



WP(MD)No.18639 of 2013

instructions issued by the District Revenue Officer then and there.

Moreover, the location of the impugned land is within the Madurai City Municipal Corporation limits from 2010-2011 as per G.O.Ms.No.460, Revenue (P2) Department, dated 04.06.1998 and therefore, the lease has to be worked out at the rate of 14% and not 7%. Hence, there is no error in the fixation of lease amount and the writ petition is liable to be dismissed.

6.This Court considered the rival submissions and perused the materials placed on record.

7.The petitioner School was granted 4.96 acres of government land in S.No.6/1 vide G.O.Ms.No.814, Revenue Department, dated 02.09.1997, for nine years. The lease was extended for a further period of 15 years from 02.09.2006 vide G.O.No.109948/2001/J1 dated 14.06.2001. The lease amount was periodically increased. The grievance of the petitioner is that the second respondent by an order dated 14.06.2011 increased the rent by 300% for the period 02.09.2009 to 01.09.2012 to Rs.11,35,344/-. Therefore, the petitioner preferred an appeal before the first respondent and in



WP(MD)No.18639 of 2013

WP(MD)No.14739 of 2011, the appeal was directed to be disposed of within a stipulated time limit. Thereby, the impugned order dated 13.05.2013 rejecting the appeal and confirming the order dated 14.06.2011 came to be passed.

8.The main contentions of the petitioner are that the land has been put to non-commercial use for running a government aided School with fee structure fixed by the government and the first respondent / appellate authority has passed the impugned order without giving any opportunity to the petitioner.

9.Since the quantum of lease is under dispute here, this Court by order dated 17.04.2023 directed the learned Additional Advocate General to file a report along with the relevant standing orders on fixation of lease amount on Government lands and to clarify whether all the lease are treated same or any concessions are provided to the Educational Institutions, Hospitals and Temples etc. Accordingly, the Commissioner of



WP(MD)No.18639 of 2013

Land Administration filed his report dated 20.06.2023, in which, it was stated that the lands granted to the petitioner in S.No.6/1 is classified as “Chinna Kanmoi Poramboke ” and same was wrongly assigned to the petitioner. Further the lease period expired on 01.09.2021 and that the second respondent vide Na.Ka.61235/2003/J1 dated 18.03.2022 reported that the lands has already been taken and fenced. The report further states that, since the lease was erroneously granted in a kanmoi poramboke in the year 1997, it was also not possible to extend the lease in water bodies in view of the judgment of the Division Bench of this Court in *M/s.UltraTech Cement Limited vs. The Sate of Tamil Nadu & Others* [WA.No.214 of 2023 dated 20.03.2023].

In view of the above developments, this Court is not inclined to entertain this writ petition and the same is accordingly dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Internet : Yes
Index : Yes / No
NCC : Yes / No
gk

14.02.2024



WP(MD)No.18639 of 2013

To

WEB COPY

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The District Revenue Officer,
District Collector Office Campus,
Madurai.
- 3.The Revenue Divisional Officer,
District Collector Office Campus,
Madurai.
- 4.The Tahsildar,
Madurai North Taluk,
Madurai.



WEB COPY



WP(MD)No.18639 of 2013

B.PUGALENDHI, J.

gk

WP(MD)No.18639 of 2013

14.02.2024