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CRP.No.1262 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **25.07.2025**

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.No.1262 of 2025 & CMP.No.7576 of 2025

1. The Chairman,
Chennai Port Trust, Chennai – 600 001.
2. The Chennai Fishing Harbour,
Management Committee,
Represented by its Member Secretary,
Office at Royapuram, Chennai – 600 013.
3. The Estate Officer, Chennai Port Trust,
Office at Old Administrative Building, 3rd Floor,
No.1, Rajaji Salai, Chennai – 600 001.

... Petitioners

Versus

M/s.Thilakam & Thilakam Marine Utility,
A Partnership Firm, Represented by its Partner,
Mr.R.Vijay Ashwin, Plot No.71 & 72,
Fishing Harbour Complex, Royapuram,
Chennai – 600 013.

.. Respondent

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Order in CMA.No.39 of 2023 on the file of the learned Principal District Judge, City Civil Court, Chennai and thereby reverse the Order passed by the Estate Office in Order No.FHMC3/6807/2005/E, dated 18.07.2023.



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For Petitioners : Mr.Haja Mohideen Gisthi

For Respondent : Mr.K.V.Sundararajan

ORDER

Challenge has been made to the Order of the Principal Judge, City Civil Court, Chennai in allowing the appeal filed as against the Order passed by the the third respondent under section 5[1] of the Public Premises [Eviction of Unauthorized Occupants] Act 1971.

2. The brief background of the facts of the case is as follows :

a] The respondent/licensee was originally inducted into the possession of the property on the basis of the licence fee fixed at Rs.65 per sq.mt. per annum. Basic amenities like water, power, drainage, sewerage, road and security will be provided for the licensee, who are seeking allotment of land. The respondent was allotted plot Nos.71 and 72 on payment of Rs.65/-- per sq.ft. per annum. The respondent has also put up construction by setting up their plant. The license period was for 10 years. Subsequently in 2001, the license fee was enhanced from Rs.65/- to Rs.85 per annum per sq.mt. According to the respondent, he was paying the



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enhanced rent, without any default. When the matter stood thus, the second respondent issued a notice indicating that the license fee has been enhanced to Rs.120 per annum per sq.mt. from may 2001 and also sought additional security deposit. Since rents have been increased arbitrarily, the same has been challenged in the Writ Petition in W.P.No.24444 of 2005 the said Writ Petition was disposed on 07.02.2013 by directing the respondent to approach the Civil Court to challenge the enhancement of rent. Till filing of the suit, an interim Order has also been granted by this Court.

b] Based on the Orders obtained from this Court, a suit has been filed in O.S.No.6110 of 2013 on the file of the XVI Assistant City Civil Court, Chennai for permanent injunction and mandatory injunction to refix the rent. The suit and the appeal filed in this regard have been dismissed. Now it appears that the second appeal has been filed and the same is yet to be numbered before this Court. In the meanwhile, the respondent has also filed Writ Petitions in W.P.No.81075 of 2023 and W.P.No.23399 of 2012 challenging the electricity service charges demanded by the revision

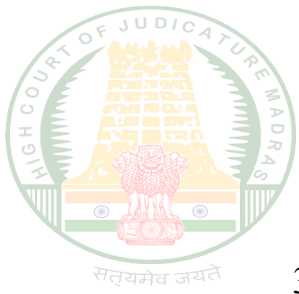


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petitioners. The said Writ Petitions have been disposed on 18.07.2013.

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However, in the Writ Appeals filed in W.A.Nos.1874 of 2023 and 1766 of 2013, this Court has directed the respondent to create a mortgage in respect of the super structure constructed by them as security towards electricity charges and also machineries. Accordingly, the mortgage deed has also been executed by both sides. Now another Civil suit in C.S.No.313 of 2017 has also been filed seeking a direction to the Port Trust to pay a sum of Rs.71,26,709/-, which is said to be the excess amount paid by the respondent with interest at the rate of 18% per annum. At this stage, now the impugned Order has been passed by the Estate Officer on the ground that the enhanced rents have not been paid as on date of the Order and huge arrears is due by the respondent. Therefore, treated them as an unauthorized occupants under Public Premises [Eviction of Unauthorized Occupants] Act 1971. As against which an appeal has been preferred in CMA.39 of 2023. The appellate Court taking note of the proceedings pending between the parties, has set aside the said Order. Challenging the same, the present revision petition has been filed .



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3. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent and perused entire materials available on record.

4. It is an admitted fact that the license has been original entered between the parties is already over by efflux of time. It is not in dispute that as per the Public Premises [Eviction of Unauthorized Occupants] Act 1971, once, the period of license is over, still the person is in possession of the property, such possession shall also come within the ambit of unauthorized occupation. But the fact remains that in this case, though the original license fees was Rs.65/- the same has gradually increased up to 2001 between the parties, the dispute arose only when the enhancement has been made after 2001, which was challenged before this Court in a Writ Petition in W.P.No.24444 of 2005. Though the Writ Court granted interim Order, while disposing the Writ Petition, liberty is granted to the petitioners to approach the competent Civil Court. As per the directions of this Court, a suit in O.S.No.6110 2013 has been filed and the same has dismissed. Of court, Second Appeal is pending. As far as the fixation of rent is concerned, the Courts below have not gone in to that aspect and



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directed the parties to go to the Rent Controller and the same is now subject matter in the Second Appeal.

5. Similarly, when the electricity charges sought to be recovered from the respondent, the Writ Petitions in W.P.Nos.8175 of 2023 and W.P.No.23399 of 2012 have been filed and the same have been dismissed and in a Writ Appeals in W.A.Nos.1874 of 2023 and 1766 of 2013, this Court directed the respondent to execute a mortgage in respect of the super structures put up by them and also the machineries in the building towards security of service charges. The mortgage is still in existence and now it appears that the suit is filed by the respondent to discharge the mortgage and also for returning the alleged excess amount paid by them and that suit is also pending.

6. Considering all these aspects and the disputed issue with regard to the very enhancement of rent is still pending and the mortgage has been created as per the Orders of this Court and that issue is also pending before Civil Court, this Court is of the view that based on enhancement of rent, which was not agreed upon by the respondent from the year 2001, now the



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Orders have been passed by the Estate Officer, in view of this Court, the same is not proper, since the very enhancement is challenged and pending before the Civil Court in the Second appeal. Therefore, this Court is of the view that till the suits filed in this regard are disposed of, the provisions of Public Premises [Eviction of Unauthorized Occupants] Act 1971 cannot be invoked , particularly in the given circumstances of the facts of the case.

7. Now the revision petitioners would submit that as per their calculation Rs.1,47,83,774/- is due by the respondent and that calculation has been arrived on basis of the enhancement of license fee from time to time. Whereas, according to the respondent, as per their calculation a sum of Rs.10,52,012/- at the rate of Rs.120/- per sq.mt is due. Therefore, as the main dispute is with regard to the enhancement of license fee, without that issue being decided by the Civil Court, the Estate Officer calculating the enhanced rent repeatedly, in view of this Court, is not correct. However, taking note of the fact that the Civil Court had ceased the matter, the learned XII Additional Judge, City Civil Court is directed to dispose of the suit in O.S.No.4148 of 2019 expeditiously within a period of four months from the date of receipt of a copy of this Order. Considering the fact that



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the second appeal is pending, to protect the interest of the parties, the respondent is directed deposit a sum of Rs.30,00,000/- [Rupees thirty lakhs only] without prejudice to invoke their rights in the pending Second Appeal, within a period of six weeks from today.

8. With the above directions, this Civil Revision Petition is dismissed and the Order of the appellate Court allowing the appeal stands confirmed. No costs. Consequently, the connected miscellaneous petition is closed. The respondent shall ensure to expedite the numbering of the second appeal.

25.07.2025

Index : Yes/No
Internet : Yes/No

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To,

The Principal District Judge,
City Civil Court, Chennai.



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N.SATHISH KUMAR, J.

VRC

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