

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4504 OF 2007

SOUTHERN RAILWAY, CHENNAI & ANR. Appellant(s)

VERSUS

DELIGHT MANUFACTURING COMPANY Respondent(s)

O R D E R

1. Heard the learned counsel for the parties.
2. This appeal is directed against the judgment and order dated 29th September, 2004 passed by a Division Bench of the High Court of Judicature at Madras in Writ Appeal No.303 of 2004, whereby the High Court has upheld the view taken by the learned Single Judge and dismissed the appeal of the appellants herein.

3. The respondent Delight Manufacturing Company took a vacant plot of land on lease belonging to the Southern Railway in 1948 and is in occupation thereof since then. The respondent has been operating a restaurant by bringing up a

superstructure thereon. When the rent was revised to Rs.3,000/-, the respondent challenged this by filing a writ petition before the Madras High Court. The learned Single Judge of the High Court allowed the writ petition and held that what had been leased to the respondent was not a shop but a vacant plot of land. Hence, licence fee would be payable under Clause 3.1(b) of the Guidelines for commercial licensing of Railway lands as revised by Railway Board's letters dated 17.9.1985 and 8.10.1987.

4. Aggrieved by the aforesaid order passed by the learned Single Judge, the appellants filed an appeal before the Division Bench of the High Court. The Division Bench dismissed the appeal holding that the leased property would fall under Clause 3.1(b) of the said Guidelines. The appellants are thus before this Court.

5. This Court on 9th February, 2011 referred this matter for mediation for resolving the disputes between the parties. A report has been received from the learned Mediator. We have perused the same.

6. It has been suggested to the parties by the

learned Mediator that, as a special case, the rent of the premises could be fixed at Rs.8,000/- per month. This suggestion was accepted by the respondent Company but the Railway Authorities have some difficulty in accepting the same as there are several other tenants occupying such railway land on lease.

7. In our considered view, the suggestion made by the learned Mediator seems to be reasonable. Consequently, we direct that the appellant Southern Railway, Chennai shall be paid a rent of Rs.8,000/- per month from 1st March, 2012. This may not be treated as a precedent for other cases.

8. With these observations and direction this appeal is disposed of, leaving the parties to bear their respective costs.

.....J
(DALVEER BHANDARI)

.....J
(DIPAK MISRA)

New Delhi;
February 28, 2012.