

News

A private company is making a fortune by subleasing public land that was provided to them for ₹1, according to the Madras High Court.



The Court observed that by subleasing the land it had leased for ₹1 annually, the business was earning ₹12.4 lakh per month.

The State Industries Promotion Corporation of Tamil Nadu (SIPCOT) was recently granted permission by the Madras High Court to collect subleasing fees from a lessee on the grounds that public industrial land granted at a nominal rent cannot be used for commercial purposes (SIPCOT vs Carriers Private Limited).

According to a Division Bench consisting of Justices SM Subramaniam and C Kumarappan, the arrangement was "opposed to public policy" and amounted to "unjust enrichment."

The Court's decision was made while overturning a 2022 single-judge rule that had dismissed SIPCOT's demand that Carriers Private Limited pay subleasing fees.

In 2005, the private company was granted 17.64 acres in a SIPCOT industrial park for 99 years at a rent of ₹1 per year. It was given permission to set up logistics and storage facilities, and it later signed "sub-lease agreements" with other companies.

According to the Court's analysis of one such sublease, the business was receiving 93,718 square feet for ₹12,41,764 a month, with 5% yearly escalation and 18% interest for late payments.

The lessee, on the other hand, was only paying SIPCOT ₹1 annually for the whole tract of land.

"It is harmful to the appellant, the State, and amounts to undue enrichment for the respondent/company. The Court ruled that such lopsided lease terms—one for the State and another for private lessees—unquestionably violate public property rights and go against public policy.

The Bench further stated that buildings and land are inseparable and that sheds or warehouses built on leased property cannot be regarded as independent. Therefore, it came to the conclusion that subleasing buildings that were anchored to the ground was equivalent to subleasing the land.

Clause 39 of the leasing agreement, which reserved SIPCOT's ability to impose additional requirements "for the benefit of the Industrial Park as a whole," was cited by the court.

It concluded that the sole judge had neglected to take into account the clause's scope in light of constitutional principles and that it was adequate justification for recovering subleasing expenses.

The Bench noted, highlighting the State's responsibilities under Article 39(b) and (c),

"It is against the public interest for the state to enter into a contract with private individuals."

Citing Supreme Court rulings, the Court invoked the public trust theory to emphasize that public resources must be managed for the common welfare and cannot be allowed to be used as tools for private gain.

The Court affirmed that concessional allotments of public land cannot be turned into tools of disproportionate private gain by upholding the corporation's authority to recoup sub-leasing payments.

Advocate Palaniappan and Senior Advocate Viduthalai represented SIPCOT.