

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).No. 17002 of 2015 (A)

PETITIONER(S):

1. SANTOSH KUMAR, POOJA BHAVAN,
ELAMBALLUR, KUNDARA P.O.
2. C.PRASAD,SHARAVANA ILLAM,
ELAMBALLUR, MUKKADA, KUNDARA.
3. A.NAZARUDDIN,MANGALATHU LAKSHAM VEEDU,
KALLUMTHAZHAM P.O., KOLLAM.
4. VIJAYAKUMAR,THODIYILAZHIKATHU VEEDU,
KANJIRAVILA, KUNDARA.
5. USHA JOSEPH, KODIMEL PUTHEN VEEDU,
KANJIRODU, KUNDARA.

**BY ADVS.SRI.M.K.CHANDRA MOHANDAS
SMT.K.K.RAZIA
SRI.K.SATHIYANANDAN PILLAY
SRI.SHAKTHI PRAKASH
SRI.PRATHEEK VISWANATHAN
SRI.M.L.JISHNU**

RESPONDENT(S):

1. SOUTHERN RAILWAY,
REPRESENTED BY ITS GENERAL MANAGER,
OFFICE OF THE GENERAL MANAGER, 1ST FLOOR,
NGO MAIN BUILDING, SOUTHERN RAILWAY,
PARK TOWN, CHENNAI - 600003.
2. THE ESTATE OFFICER,DIVISIONAL OFFICE,
SOUTHERN RAILWAY, WORKS BRANCH, MADURAI.

***ADDL. R3 IMPEADED**

3. SENIOR DIVISIONAL ENGINEER, SOUTH, SOUTHERN RAILWAY,
MADURAI DIVISIONAL OFFICE, MADURAI - 625 016.

**IS SUO MOTU IMPEADED AS THE ADDITIONAL 3RD RESPONDENT
AS PER ORDER DATED 14.07.2015.**

BY ADV. SRI.C.S.DIAS,SC, RAILWAYS

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 14-07-2015 ALONG WITH WPC. 17980/2015 & WPC. 18712/2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1. COPY OF THE PROCEEDINGS OF THE DISTRICT COLLECTOR DATED 2.3.1995.
- EXHIBIT P2. COPY OF THE RECEIPT OF RENT DATED 5.5.2008.
- EXHIBIT P3. COPY OF THE RECEIPT OF RENT DATED 3.6.2009
- EXHIBIT P4. COPY OF THE INTERIM ORDER DATED 26.9.2000.
- EXHIBIT P5. COPY OF THE LOCATION SKETCH OF THE 1ST PETITIONER'S SHOP.
- EXHIBIT P6. COPY OF THE LOCATION SKETCH OF THE 2ND PETITIONER'S SHOP.
- EXHIBIT P7. COPY OF THE LOCATION SKETCH OF THE 3RD PETITIONER'S SHOP.
- EXHIBIT P8. COPY OF THE LOCATION SKETCH OF THE 4TH PETITIONER'S SHOP.
- EXHIBIT P9. COPY OF THE LOCATION SKETCH OF THE 5TH PETITIONER'S SHOP.
- EXHIBIT P10. COPY OF THE SHOW CAUSE NOTICE DATED 16.4.2015.
- EXT.P10(A). COPY OF THE SHOW CAUSE NOTICE DATED 16.4.2015.
- EXT.P10(B). COPY OF THE SHOW CAUSE NOTICE DATED 16.4.2015.
- EXT.P10(C). COPY OF THE SHOW CAUSE NOTICE DATED 16.4.2015.
- EXT.P10(D). COPY OF THE SHOW CAUSE NOTICE DATED 16.4.2015.
- EXHIBIT P11. COPY OF THE PETITION FOR EXTENSION OF TIME.
- EXHIBIT P12. COPY OF THE LETTER DATED 12.5.2015.
- EXHIBIT P13. COPY OF THE POST RECEIPT DATED 28.5.2015.
- EXHIBIT P14. COPY OF THE POSTAL REMARK.
- EXHIBIT P15. COPY OF THE OBJECTION FILED BY THE 1ST PETITIONER.
- EXHIBIT P16. COPY OF THE OBJECTION FILED BY THE 2ND PETITIONER.
- EXHIBIT P17. COPY OF THE OBJECTION FILED BY THE 3RD PETITIONER.
- EXHIBIT P18. COPY OF THE OBJECTION FILED BY THE 4TH PETITIONER.
- EXHIBIT P19. COPY OF THE OBJECTION FILED BY THE 5TH PETITIONER.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

K. VINOD CHANDRAN, J.

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**W.P.(C) No.17002 of 2015 - A,
17980 of 2015 -V and
18712 of 2015 - L**

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Dated this the 14th day of July, 2015

J U D G M E N T

The petitioners in all the writ petitions are petty traders allegedly occupying the Railway's premises. The petitioners were issued with show cause notices under Public Premises (Eviction of Unauthorized Occupants) Act, 1971, which are produced in W.P.(C) No.17002 of 2015 as Exts.P10(a) to P10 (d), in W.P.(C) No. 17980 of 2015 as Exts.P1 to P10 and in W.P.(C) No.18712 of 2015 as Exts.P1 to P4. The petitioners are aggrieved by the fact that the 2nd respondent, who has to consider the objections has not accepted the objections, despite the petitioners having sent it by registered post. In fact the learned Standing Counsel appearing for the respondent would submit that no such objections were received.

2. In any event since the eviction is only at the show cause notice stage, it is only proper that the Estate Officer, the 2nd respondent consider the objections. The petitioners also should be afforded an opportunity for hearing and in the circumstances of the petitioners being petty traders, it is only proper that the Estate Officer holds a sitting for hearing, at any of the Southern Railway offices at Kollam.

3. In such circumstance, this Court would direct the petitioners to file their objections before the 2nd respondent through the Senior Divisional Engineer, South, Southern Railway, Madurai Divisional Office, Madurai 625 016, within two weeks from today. Specifically the objections shall be sent by registered post, with due acknowledgment, to the Senior Divisional Engineer. The Senior Divisional Engineer is suo motu impleaded as the additional 3rd respondent. The Senior Divisional Engineer shall hand over the objections to the 2nd respondent. The 2nd respondent being a Touring Officer shall

W.P.(C) No.17002 of 2015 - A
& connected cases

intimate a date of hearing to each of the petitioners by notice specifying the venue at Kollam. The petitioners shall appear for such hearing and the Estate Officer after affording an opportunity of hearing, pass orders on the show cause notices. It is made clear that the petitioners shall be continued till such orders are passed and subject to the provisions of the Act.

The writ petitions are disposed of.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P. A to Judge.