

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 193

WP(C).No. 18458 of 2015 (F)

PETITIONER :

**MUHAMMED SHAFI, AGED 52 YEARS,
S/O.MUHAMMED SAHIB,MANAGER,
AL-BAKHIYATHU SSALIHATHU MADRASSA,
RESIDING AT- DARUL NAJADH, NEAR RAILWAY STATION,
PUNALUR-691 305. KOLLAM DISTRICT.**

**BY ADVS.SRI.MANOJ RAMASWAMY
SMT.SANJANA R.NAIR
SMT.V.SREEJA**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE DISTRICT COLLECTOR,KOLLAM DISTRICT,
KOLLAM-691 001.**
- 3. THE THAHSILDAR,PUNALUR TALUK,
TALUK OFFICE, PUNALUR, KOLLAM DISTRICT-691 305.**
- 4. THE ESTATE OFFICER, SOUTHERN RAILWAY,
DIVISIONAL OFFICER, WORKS BRANCH, MADURAI,
TAMIL NADU-625 016.**
- 5. SENIOR SECTION ENGINEER,O/O.SENIOR SECTION ENGINEER,
SOUTHERN RAILWAY, PUNALUR-691 305.**

**R1 TO R3 BY GOVERNMENT PLEADER
R4 & R5 BY SRI.C.S.DIAS,SC, RAILWAYS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).No. 18458 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE CERTIFICATE OF AFFILIATION ISSUED TO THE PETITIONER.

EXHIBIT P1(A): TRUE COPY OF THE ENGLISH TRANSLATION AT EXHIBIT P1.

EXHIBIT P2: TRUE COPY OF THE PHOTOGRAPHS.

EXHIBIT P3: TRUE COPY OF THE SALE DEED NO.87/1975 DATED 13.1.1975 OF PUNALUR SUB REGISTRY.

EXHIBIT P4: TRUE COPY OF THE ORDER NO.U/W274/ADEN/SCT DATED 27.5.2015 ISSUED BY THE 4TH RESPONDENT.

EXHIBIT P5: TRUE COPY OF THE PETITION DATED 5.6.2015 ADDRESSED TO THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

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K. VINOD CHANDRAN, J.

W.P(C). No.18458 of 2015

Dated this the 06th day of July, 2015.

JUDGMENT

The petitioner is aggrieved with the eviction notice issued at Ext.P4. The petitioner submits that no notice has been issued under Sub-section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 [for brevity, the Act of 1971], before the present order has been passed under Sub-section 1 of Section 5.

2. Admittedly, no notice is seen to have been issued looking at Ext.P4 order, presumably for the reason that the shop room, which is sought to be evicted, was locked when the Estate Officer visited the said place. The petitioner's contention is that it is not a shop room and there is a Madrassa conducted by him. This Court would not look into this contention, since it is for the Estate Officer to consider any objection on the basis of the materials.

3. In such circumstances, Ext.P3 will be treated as a notice under Section 3 of the Act of 1971. The petitioner is granted two weeks' time to file any objection or produce substantiating materials before the Estate Officer. The petitioner shall appear before the Estate Officer on 21.07.2015. The matter shall be considered after hearing the petitioner, on the said date or any other date convenient to the Estate Officer, but the matter shall be disposed of within two weeks from the date of hearing. It is made clear that till orders passed, the petitioner will not be evicted.

The writ petition is disposed of.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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