

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2015

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

**C.R.P(NPD) Nos.1283, 1435, 1305 to 1308, 1452 and 1453 of
2015**

& M.P.Nos.1,1,1,1,1,1,1,1,1, 2,2,2,2,2,2,2 and 2 of 2015

M.Vilasini : Petitioner in CRP(NPD)No.1283/2015

Jagan Parcels
rep.by its Prop. M.Muzamail : Petitioner in CRP(NPD)No.1435/2015

I.J.Jacob
rep. by its Prop.D.Selvi : Petitioner in CRP(NPD)No.1305/2015

Subiksha Travels
rep.by its Prop.M.Kuppuswamy : Petitioner in CRP(NPD)No.1306/2015

Parveen Travels
rep.by its Prop.A.Asalam : Petitioner in CRP(NPD)No.1307/2015

Yogalakshmi Travels
rep.by its Prop.S.Panner Selvam: Petitioner in CRP(NPD)No.1308/2015

RPD Travels
rep.by its Prop.R.S.J.Rajan : Petitioner in CRP(NPD)No.1309/2015

Ranganathan Travels
rep.by its Prop.V.Ramanathan : Petitioner in CRP(NPD)No.1452/2015

Rathimeena Travels
rep.by its Prop.S.Sekar :Petitioner in CRP(NPD)No.1453/2015

Vs

The Estate Officer,
 Additional Divisional Railway Manager,
 Southern Railway, Chennai-600 003 : Respondent in all CRPs.

Prayer in CRP(NPD)Nos.1283, 1435, 1305 to 1308, 1452 and

1453 of 2015 : Civil Revision Petitions filed under 227 of the Constitution of India, against the order and decreetal order, dated 04.03.2015 passed in C.M.A.Nos.182, 188, 181, 183, 187, 186, 189, 184, 185 of 2010 by the Principal City Civil Court, Chennai, against M/W.234/Evic/MCPT/10, dated Nil on the file of the Estate Officer, Additional Divisional Railway Manager, Southern Railway, Chennai 600 003.

For Petitioner
 in all CRPs : Mr.A.Saravanan

For Respondent
 in all CRPs : Mr.V.G.Suresh Kumar

COMMON ORDER

These revisions are directed against the judgment passed by the learned Principal Judge, City Civil Court, Chennai, in CMA Nos.181 to 189 of 2010, dated 04.03.2015 respectively.

2.The respondent/Estate Officer, Additional Divisional Railway Manager, Southern Railway, Chennai, issued a notice in Form A to the appellants under sub section (1) and Clause (b)(ii) of sub section (2) of section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 herein-after called as " Act", dated 09.09.2010 calling upon the appellants to show cause why an order of eviction should not be made against them. The appellants submitted their explanations and after conducting enquiry, the respondent in Form B under section 5(1)(b) of the Act, directed the appellants to vacate the premises within 15 days from the date of publication of the order. Aggrieved by the order, the appellants preferred appeals before the learned Principal Judge, City Civil Court, Chennai under section 5(1) of the Act. The learned Judge dismissed the appeals. Challenging the orders, the present revisions are filed.

3.Mr.A.Saravanan, learned counsel for the petitioner, in all revisions, submitted that the order of the respondent is in violation of principles of natural justice, since material facts relied on by them were not furnished to the petitioners before conducting enquiry; that the order of the respondent was issued without assigning any valid reason therefor; that the notice issued under section 4 is a non-speaking one and the respondent has not considered the reply

submitted by the petitioners along with the documents enclosed therewith.

4.The learned counsel further submitted that reason that was assigned in the notice is that the property belongs to the Southern Railway and the respondent did not mention any other reason to evict the petitioners as per law and there is no proper description of property in the notice with boundaries and that the respondent has also not considered the plea of the appellants that they have been in possession of the property for a long period without causing any inconvenience to the respondent.

5.The learned counsel has relied upon the following judgments in support of his contention.

01.1969(3) SCC 415 in the case of M/s.Wire-Netting Stores and another vs. The Delhi Development Authority and others.

02.AIR 1980 Jammu and Kashmir 16(1) in the case of Dr.Yash Paul Gupta vs. Dr.S.S.Anand and others.

03.AIR 1980 Andhra Pradesh 100 in the case of Smt.G.Rajalakshmi and others vs. Authority (Chief Judge, City Civil Court, Hyderabad) and others.

04.AIR 1988 Delhi 174 in the case of Sh.Bhagat Singh vs. Delhi Development Authority.

05.AIR 1990 Madras 350 in the case of Hamsavalli and etc., vs. The Tahsildar, Vridhachalam, South Arcot District.

06.1999(III)CTC 588 in the case of N.Govindan vs. The Chief Personnel Officer, I.C.F. Madras-38 and another.

6.Per contra, Mr.V.G.Suresh Kumar, learned counsel for the respondent submitted that in the year 1995, Hotel Mahasakthi International has taken the shops constructed in Chintadripet Railway Station on lease for a period of three years and it expired on 15.11.1998 and they have also vacated the property and thereafter, the appellants have unauthorisedly occupied the premises without any permission from the respondent. It is further submitted that the appellants have been enjoying the property since 1998 without paying even a pie and therefore, they are liable to be evicted under the Act. The learned counsel further submitted that before passing the eviction

order, the respondent has strictly followed the procedures contemplated under section 4 of the Act and after affording opportunity to the appellants, the eviction order was passed and that the learned Appellate Judge also rightly confirmed the order of eviction, which does not require interference by this court.

7. In support of his contention, he relied upon the following the judgment:-

01. An unreported judgment of this court made in W.P.No.6539 of 2001 batch, dated 26.02.2003 [B.Chidambaram vs. The Estate Officer, Southern Railways, Tiruchirappalli and another].

02. (2005)1 MLJ 453 in the case of A.Thayal Nayagi vs. Union of India and others.

8. In the unreported judgment made in WP No.6539 of 2001 batch, dated 26.02.2003, a similar question was raised stating that the Estate Officer of Southern Railway has not afforded opportunity and therefore, the order is against the principles of natural justice. The single Judge of this court, following the judgments reported in **2001 Writ L.R. 523 and 1997(II)MLJ 243** has observed that unauthorised occupants cannot plead principles of natural justice. The principles of natural justice cannot be put in straight jacket and it is

not an absolute rule. In the absence of any legal right to defend the order of eviction and in fact in such cases, when there cannot be any defence, such a formality need not be followed.

9. In the judgment reported in **(2005)1 MLJ 453** in the case of **A.Thayal Nayagi vs. Union of India**, the Hon'ble Division Bench of this Court has held as follows:-

"6.Learned counsel for the appellant however argued that the procedure mentioned in the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 should have been followed by the authorities, but it was not followed. In our opinion, this argument is based on a total misconception. The object of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is to forcibly evict unauthorised occupants, who are deliberately remaining in occupation of public premises unauthorisedly. Hence, the impugned judgment of the learned single Judge is fulfilling exactly the same object which the aforesaid Act aims

at, namely, to forcibly throw out an unauthorised occupants from public property. Decent people vacate the premises when the period of lease or licence expires. When a person does not behave in a decent manner, the only way left is to forcibly throw him out. It is for this purpose that the aforesaid Act was enacted, and the same object has been achieved by the learned single Judge namely, to throw out an unauthorised occupant..

10. In the judgments cited by the learned counsel for the appellants, in **1969(3) SCC 415** in the case of ***M/s. Wire-Netting Stores and another vs. The Delhi Development Authority and others***, a writ petition was moved before the Hon'ble Supreme Court for a writ of mandamus, restraining the respondents from dispossessing the petitioners from the plot in dispute on the ground that the petitioners were lessees and without giving any notice or opportunity of being heard, the respondents could not evict the petitioners. In the above facts, the Hon'ble Apex Court has held that the procedure laid down by section 4 was not followed, for it was the burden of the authority to establish that they were acting in

accordance with the law.

11.In ***AIR 1980 Jammu and Kashmir 16(1)*** in the case of ***Dr.Yash Paul Gupta vs. Dr.S.S.Anand and others***, it was held that grounds of eviction shall contain in the notice and it is a mandatory.

12.In the judgment reported in ***AIR 1988 Delhi 174*** in the case of ***Sh.Bhagat Singh vs. Delhi Development Authority***, it was held that notice issued under section 4 is invalid, since the description of premises, to which notice pertains was not given in notice.

13.It is not in dispute that Hotel Mahasakthi International was issued a licence on 16.11.1995 pertaining to scheme III in Chintadripet Railway Station for a period of three years, which came to an end on 15.11.1998 and the licence was not thereafter extended by the Railways. In the explanation/reply submitted by the appellants to the notice issued in Form A, they have admitted that they have been in possession of the property since 1998 and it is not their case that they were inducted by the Railways and the licence still subsists. In the notice issued in Form A, the respondent has mentioned the shop numbers and the floor, in which they are situated. The appellants have not disputed the identity of the property.

14.It is also an admitted fact that the appellants have submitted their reply and after affording opportunity to the appellants to explain their case, the respondent has passed the eviction order. In the case on hand, the respondent has issued notice under section 4 of the Act and after providing opportunity to the appellants, passed the eviction order under section 5 of the Act.

15.As held supra, the appellants have not disputed the identity of property and the notices under section 4 contain the shop numbers and the location. Therefore, I am of the considered opinion that the judgments relied upon by the learned counsel for the appellants, have no bearing on the facts of this case.

16.I respectfully follow the decisions of this court referred to supra. The learned Principal Judge, City Civil Court, Chennai has also rejected the appeals following the Division Bench judgment reported in **(2005)1 MLJ 453** in the case of **A.Thayal Nayagi vs. Union of India**.

17.In view of the above facts, this court does not find force in the contentions of the learned counsel for the petitioners. Hence, I do

not find any reason to interfere with the orders impugned in these revisions. In the result, all the revisions are dismissed. However, no order as to cost. Consequently, connected Miscellaneous Petitions are closed.

31.03.2015

Index : Yes/No
Internet: Yes/No

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K.KALYANASUNDARAM,J
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To,

The The Principal Judge,
City Civil Court,
Chennai.

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1305 to 1308, 1452 and 1453 of 2015**

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