

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.5315 and 5316 of 2015

And

M.P.Nos.1 and 1 of 2015

C.M.S.Badruddin
Liyakath Ali

....Petitioner in W.P.No.5315 of 2015
... Petitioner in W.P.No.5316 of 2015

Vs.

Coonoor Municipality
Rep. by its Commissioner,
Coonoor 641 302

.... Respondent in both W.Ps.

Common Prayer:

Petition filed under section 226 of the Constitution of India to issue a Writ of Certiorarified mandamus calling for the records of the respondent and to quash the impugned notice cum order in Na.Ka.No.3704/1993/A4 dated 06.02.2015 received by the petitioner on 11.02.2015 at 5 p.m. and direct the respondent not to evict the petitioner from the premises Asian Lodge & Boarding at No.90, Outside Municipal Shops, Bus Stand, Coonoor, except by due process of law.

For Petitioner : Mr.M.Balasubramanian
For Respondent : Mr.M.L.Mahendran
Government Advocate

C O M M O N O R D E R

Heard Mr.M.Balasubramanian, learned counsel appearing for the petitioners and Mr.M.L.Mahendran, learned Government Advocate appearing for the respondents. With the consent of both the parties, these writ petitions are taken up for final disposal.

2.The petitioners have filed these writ petitions challenging the notice issued by the municipality dated 06.02.2015 calling upon the petitioners to vacate the premises within fifteen days.

3.It is seen that the petitioners were inducted as lessee of the said premises initially for a short period, subsequently, the petitioners claim that they are entitled to continue in possession by

virtue of G.O.Ms.No.92 of 2007 dated 03.07.2007. When an attempt was made to evict the petitioners, the petitioners filed suits in O.S.Nos.141 and 140 of 1993 respectively, on the file of the District Munsif Court, Coonoor. In the said suit, the petitioners as plaintiffs sought for a declaration to declare the notice dated 22.03.1993 as not valid and cannot be implemented. However, copy of the said notice has not been enclosed in the typed set of papers. The said suits were dismissed on 29.01.2004. Aggrieved by the same, the petitioners preferred A.S.Nos. 37 and 36 of 2014 respectively, which were dismissed by the Sub-Court, Nilgiris by judgment dated 18.10.2014. Aggrieved by the same, the petitioners preferred second appeal in S.A.Nos.80 and 79 of 2005 respectively, before this Court and the second appeals were also dismissed by this Court by judgment dated 14.11.2011.

4.Thus, it is seen that the petitioners have prevented the respondent Municipality from implementing notice dated 22.03.1993 for all these years. After the judgment was delivered by this Court in the second appeals on 14.11.2011, the respondent Municipality has issued impugned notice calling upon the petitioners to vacate and hand over possession. Now, the petitioners have come before this Court and state that the respondent Municipality should approach the civil court and only after following due process of law, they could be vacated.

5.The contention raised by the petitioners is wholly mis-conceived. It is the petitioners who approached the civil court and miserably lost before the District Munsif Court, Sub Court and this Court. Therefore, the petitioners have no semblance of right to continue in possession. Accordingly, the impugned notice dated 06.02.2015 cannot be quashed at the instance of the petitioners, that too, for the reasons assigned by the petitioners.

6.Thus, the prayer sought for in these writ petitions are grossly mis-conceived and these writ petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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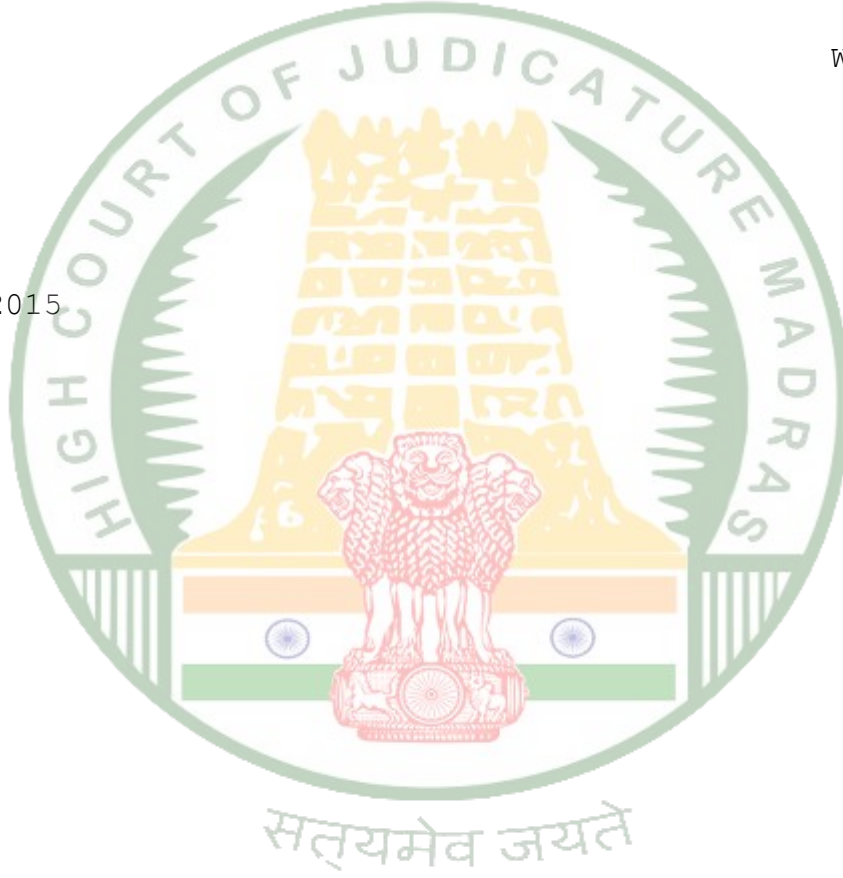
To

1.The Commissioner,
The Coonoor Municipality
Coonoor 641 302.

2 cc to M/s.M.Balasubramanaian ,Advocate, SR.No.10874, 10873

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And
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1 of 2015

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