

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.04.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.16880 of 2016
and
W.M.P.Nos.14467 and 14468 of 2016

Udhagai Nagaratchi Kudiruppugalil
Kudiruppor Nala Sangam,
rep. by its Secretary,
B.Muneer Ahmed, ...Petitioner

Vs.

The Commissioner,
Udhagamandalam Municipality,
Udhagamandalam, Nilgiris. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for entire records, relating to the impugned order passed by the respondent in Na.Ka.No.3397/2015/A9, dated 02.02.2016 and to quash the same.

For Petitioner : Mr.L.Mouli

For Respondent : Mr.S.V.Duraisolamalai
Additional Government Pleader

ORDER

Heard Mr.L.Mouli, learned counsel appearing for the petitioner and Mr.S.V.Duraisolaimalai, learned Additional Government Pleader, accepting notice for the respondent. With the consent of parties, the main Writ Petition is taken up for final disposal at the stage of admission.

2. The petitioner has filed this Writ Petition for issuance of a writ of certiorari to quash the order passed by the respondent, dated 02.02.2016.

3. This is a classical case, where, the respondent-Udhagamandalam Municipality has exercised its power in an arbitrary and perverted manner, while passing the impugned order.

Earlier, the petitioner approached this Court, by filing a Writ Petition, viz., W.P.No.3397 of 2004, to quash the resolution passed by the respondent/Municipality, dated 24.12.2003, bearing number 1411, and for a direction to fix the rent in respect of the members of the petitioner-Association. The said Writ Petition was pending, and interim order was granted, directing the members of the petitioner-Association to pay 75% of the enhanced rent. As against which, the petitioner-Association preferred a Writ Appeal, in W.A.No.1406 of 2004, and the Hon'ble Division Bench, while dealing with the Writ Appeal, took up the Writ Petition along with it, and by a common order, dated 20.10.2008, disposed of both cases, viz. Writ Appeal and Writ Petition, by passing the following order:-

"5. Hence, without expressing any opinion on the claims of the appellant/petitioner Sangam, both the Writ Appeal and the Writ Petition are disposed of with a direction to the Commissioner, Udhagamandalam Municipality, to consider the representation of the appellant/petitioner Sangam, dated 12.01.2001, and pass orders within a period of two months from the date of receipt of a copy of the order or production of the name by the appellant/petitioner.

6. In the meantime, the members of the appellant/petitioner Sangam, who are the ex-employees, shall continue to pay triple than the existing rent from October, 2008, and the said direction for payment of rent would be applicable only in case the ex-employees are still the tenants and occupants of the premises. We make it clear that in the event the Commissioner, Udhagamandalam Municipality, comes to the conclusion on enquiry that some of the premises are not occupied by the tenants, he is at liberty to take action in accordance with law to vacate those persons from the premises. We also make it clear that this order should not be understood that we have decided the right of tenancy of the members of the appellant/petitioner Sangam."

4. It is thereafter, the petitioner-Association have gone before the Authority, and submitted representation. Since the representation was not considered, the petitioner filed another Writ Petition, in W.P.No.5419 of 2016, wherein, this Court ordered notice. It appears that, on receipt of the notice in the said Writ Petition, the present impugned order has been passed.

5. According to me, the impugned order, is a non speaking order, without reference to any of the contentions raised, and such a single line order cannot stand the test of law.

6. Accordingly, the Writ Petition is allowed, the impugned order is set aside, and the respondent/Municipality is directed to pass a speaking order within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

sd

To

The Commissioner,
Udhagamandalam Municipality,
Udhagamandalam, Nilgiris.

1 cc to Mr.L. Mouli, Advocate, Sr. 27574

Writ Petition No.16880 of 2016

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