

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.05.2016

CORAM :

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.18465 of 2016
and
WMP.No.16171 of 2016

M.Gandhi

... Petitioner

Vs

The Divisional Railway Manager,
Works Branch,
Southern Railway,
Chennai 600 003.

... Respondent

Petition filed under Article 226 of the Constitution of India, praying for a Writ of mandamus, directing the respondent to consider the petitioner's representations dated 15.02.2016 and 29.03.2016 and accordingly fix or re-fix licence fee for the vacant site in S.No.115 measuring 6775 sq.ft. situated with boundaries on the north by Goods Shed Platform, East by Railway Track South by approach Road and West by Road as sought for by the petitioner.

For Petitioner : Mr.K.V.Ramesh

For Respondent : Mr.P.T.Ramkumar

सत्यमेव जयते
O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner would state that the Southern Railway has leased out a vacant site in Survey No.115 measuring an extent of 6775 sq.ft. situated with boundaries on the north by Goods Shed Platform, East by Railway Track, South by approach Road and West by Road at Tirutani through a lease agreement dated 08.07.1985, initially on an annual lease amount of Rs.5,035/-. According to the petitioner, he has been remitting the amount without any default. However, to the shock and surprise of the petitioner, the respondent sent a letter dated 14.07.2015 intimating that licence fee for the period from 01.04.1995 to 31.03.2016 has been revised and calling upon him to remit a sum of Rs.17,89,241/-. The

petitioner accordingly paid a sum of Rs.1,00,000/- and he was receiving reminders calling upon him to pay the balance amount. In this regard, he has submitted representations dated 13.11.2015, 15.02.2016 and 29.03.2016 to the respondent praying for reconsideration of the letters and since no orders have been passed, the petitioner has come forward with this writ petition.

3. Mr.K.V.Ramesh, learned counsel for the petitioner would submit that it would suffice to direct the respondent to consider and dispose of the representations of the petitioner within a stipulated time.

4. Per contra, Mr.P.T.Ramkumar, learned standing counsel, who accepts notice on behalf of the respondent would contend that subsequently, the petitioner was issued with Form 'B' notice dated 03.05.2016 under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as 'Act') and the remedy open to the petitioner, if any, is to approach the Appellate Forum and prays for dismissal of this writ petition.

5. This Court has considered the rival submissions made on either side and perused the materials placed before it.

6. A perusal of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 would disclose that under section 9 of the Act, the petitioner has to prefer an appeal challenging the order passed under Section 5 of the Act and the Appellate Authority under Section 9(3) of the Act, the Appellate Forum is vested with power to grant stay of the enforcement of the order.

7. In the light of the facts and the alternate remedy available to the petitioner, this Court is of the view that the writ petition is not maintainable for the present. Therefore, the writ petition is dismissed, granting liberty to the petitioner to invoke the appellate remedy under Section 9 of the Act. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Vacation Officer

//True Copy//

Sub Assistant Registrar

svki/rk

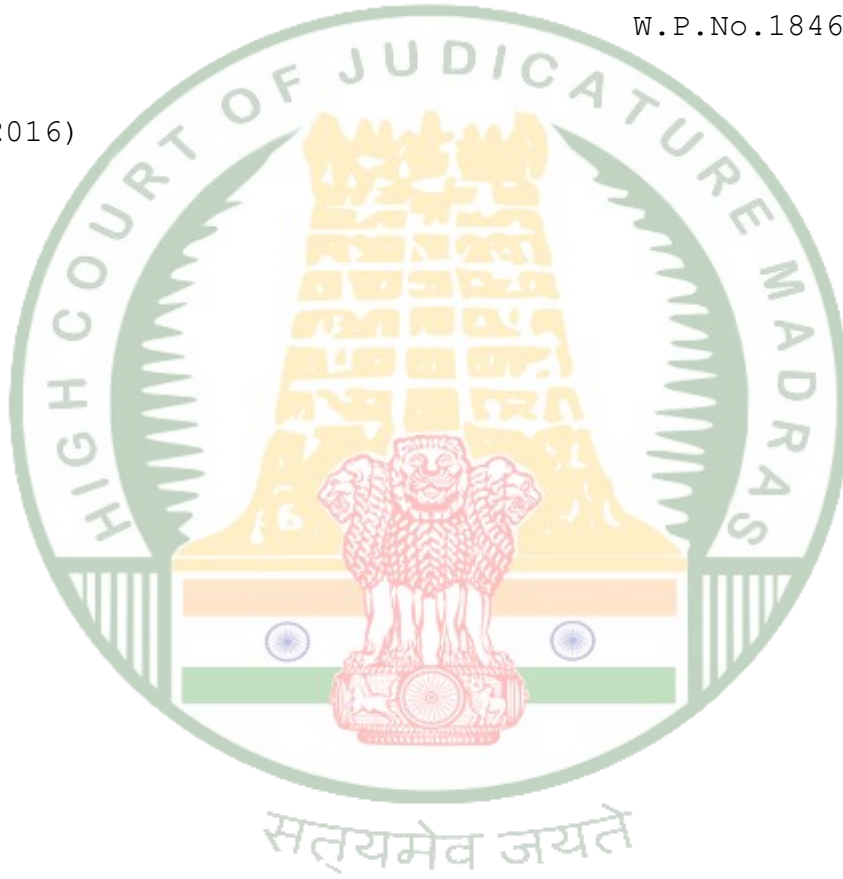
To

The Divisional Railway Manager,
Works Branch,
Southern Railway,
Chennai 600 003.

+1cc to Mr.K.V.Ramesh, Advocate, S.R.No.28832
+1cc to Mr.P.T.Ramkumar, Advocate, S.R.No.28908

W.P.No.18465 of 2016

SSK(CO)
CA(02/06/2016)



WEB COPY