

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 22.09.2016

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P.Nos.33177 to 33179 of 2016
and
W.M.P.Nos.28702 to 28704 of 2016

M. Kokila ..Petitioner in W.P. No.
33177 of 2016

Rajammal ..Petitioner in W.P. No.
33178 of 2016

K. Sivasankaran ..Petitioner in W.P. No.
33179 of 2016

Vs.

1. The District Collector,
District Collector Office,
Udhagamandalam,
The Nilgiris.

2. The Commissioner
Udhagamandalam Municipality
Udhagamandalam
The Nilgiris.

..Respondents in all the
writ petitions

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records pertaining to the impugned notice dated 19.08.2016 made in Na.Ka. No. 3397/2016/A9 on the file of the 2nd respondent herein and quash the same.

For Petitioners :: Mr.V. Rajesh

For Respondents :: Mrs.M. Lalitha,
Govt. Advocate for R1
Mr.K.V. Dhanapalan
Special Govt. Pleader for R2

COMMON ORDER

The writ petitions have been filed challenging the respective

impugned notices.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioners are in occupation of the houses, built by the 2nd respondent Municipality, for hospital workers. The petitioners have been residing in the premises in question, for several years, even though they are not the employees of the Municipality. While so, the impugned notices have been issued by the 2nd respondent directing the respective petitioners to vacate the property within 15 days on the ground that the same is required for its present workers. Challenging the same, the present writ petitions have been filed stating that the impugned notices have been issued, without following the provisions contemplated under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975.

4. This Court, in similar circumstances, disposed of connected writ petitions in W.P.Nos.31044 to 31049 and 31058 of 2016, by order dated 07.09.2016, observing as hereunder:

"A perusal of the records would show that the premises under the occupation of the petitioners are public premises, which are under the control of the respondent Municipality. The respondent Municipality require the buildings for allotment of the same to their employees, as the petitioners are not their employees. Therefore, the present impugned orders have been passed. In any event, since it is public premises, the provisions of the Act have to be followed. As rightly pointed out by the learned counsel for the petitioners, a show cause notice is mandatory under Section 4 of the Act before passing an order under Section 5 of the Act. At this juncture, it is relevant to extract below Section 4 of the Act.

"4. Issue of notice to show cause against order of eviction:- If the estate officer is of the opinion that any persons are in unauthorised occupation of any public premises and that they should be evicted, the estate officer shall issue, in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.

(2) The notice shall -

(a) specify the grounds on which the order of eviction is proposed to be made; and

(b) require all persons concerned that is to say, all persons who are, or may be, occupation of, or claim interest in, the public premises, to show cause, if any against the proposed order on or before such date as is specified in the

notice, being a date not earlier than ten days from the date of issue thereof.

(3) The estate officer shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the public premises and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned.

(4) Where the estate officer knows or has reason to believe that any person is, in occupation of the public premises, then, without prejudice to the provisions of sub-section (3), he shall cause a copy of the notice to be served on every such person by post or by delivering or tendering it to that person or in such other manner as may be prescribed".

Taking into consideration the earlier round of litigation and various attempts made by the Municipality to vacate the petitioners and similarly placed persons, it is appropriate to treat the impugned orders as notices issued under Section 4 of the Act. Further, as per Section 4(2)(b) of the Act, 10 days is granted for giving a reply.

7. Therefore, this Court directs the petitioners as well as the respondent Municipality to treat the impugned orders issued to the respective petitioners as notices issued under Section 4 of the Act and the petitioners are directed to give a reply within 10 days from today. On such reply being received by the respondent from the petitioners, the respondent is directed to consider the same and pass orders under Section 5 of the Act within a period of six weeks thereafter. Till such an order is passed under Section 5 of the Act by the respondent, the petitioners' possession shall not be disturbed. "

4. In the light of the above order passed in connected writ petitions, these writ petitions are also disposed of, on the same lines, as hereunder:

"There shall be a direction to the petitioners as well as the 2nd respondent Municipality to treat the impugned orders issued to the respective petitioners as notices issued under Section 4 of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975 and the petitioners are directed to give their reply within 10 days from the date of receipt of a copy of this order. On such reply being received by the 2nd respondent from the respective petitioners, the 2nd respondent is

directed to consider the same and pass orders under Section 5 of the said Act within a period of six weeks thereafter. Till such an order is passed under Section 5 of the said Act by the 2nd respondent, the respective petitioners' possession shall not be disturbed. "

No costs. Connected W.M.Ps are closed.

-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

nv
To

1. The District Collector,
District Collector Office,
Udhagamandalam,
The Nilgiris.
2. The Commissioner
Udhagamandalam Municipality
Udhagamandalam
The Nilgiris.

+1 cc to MR.V.RAJESH Advocate SR.NO. 54110

+1 cc to Government Pleader SR.NO. 54024

W.P. Nos. 33177 to 33179 of 2016

lrs[co]
RD 22/10/2016

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