

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.1413 of 2011

and

M.P.Nos.2 of 2011 and 1 of 2012

Christ King Middle School,
Rep. by its Correspondent,
Railway Colony,
Tambaram East,
Chennai-600 045.

... Petitioner

Vs.

1. The Union of India,
Ministry of Railways,
Rep. by its General Manager,
Southern Railway, Chennai-600 003.
2. The Principal Chief Engineer,
Southern Railway,
Chennai-600 003.
3. The Divisional Railway Manager,
Chennai Division,
Southern Railway,
Chennai-600 003.
4. The Additional Divisional Railway Manager
-cum-Estate Officer,
Chennai Division,
Southern Railway,
Chennai-600 003.
5. The Senior Divisional Engineer/Coordination,
Chennai Division,
Southern Railway, Chennai-600 003.
6. Christ King Middle School Protection Association,
No.11, Door No.30, Perialwar Street,
Sundaram Colony,
East Tambaram,
Chennai-600 050.

(Sixth respondent impleaded as per
Order dated 10.01.2013 in M.P.No.2 of 2012
in W.P.No.1413 of 2011)

7. The Secretary to Government,
Department of School Education,
Government of Tamil Nadu,
Fort St.George, Secretariat,
Chennai-600 009.

8. The Director,
Directorate of Elementary Education (DEE),
College Road,
Nungambakkam, Chennai.

(Respondents 7 and 8 impleaded as per
Order dated 22.01.2013 in M.P.No.1 of 2013
in W.P.No.1413 of 2011)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the fourth respondent's order under proceeding No.M/W.234/Evic/CKMS/10, dated 30.09.2010 culminating into an order of eviction under Section 5(1) under proceeding No.M/W.234/Evic/CKMS/10, dated 17.12.2010 and quash the same.

For Petitioner : Mr.Richardson Wilson

For Respondents: Mr.P.T.Ramkumar for RR-1 to 5
Ms.Dakshayani Reddy for R-6
Mr.S.Diwakar, Spl.G.P. for RR-7 and 8

ORDER

The petitioner-School has come forward with this Writ Petition praying for issuance of a Writ of Certiorari to call for the records of the fourth respondent's order under proceeding No.M/W.234/Evic/CKMS/10, dated 30.09.2010 culminating into an order of eviction under Section 5(1) under proceeding No.M/W.234/Evic/CKMS/10, dated 17.12.2010 and quash the same.

2. The case of the petitioner is that the petitioner-School is an aided School recognised by the Government of Tamil Nadu and it is a non-fee levying institution established to provide the best education and facilities to children of the Railway employees, apart from other children in the neighbourhood. In 1935, the land in which the School stands, was allotted by the then Railway authorities on an annual rent of Re.1 for the purpose of establishing the Middle School to benefit the children of the employees working in the Railways. On 25.04.1938, 43,680 Sq.Ft. of land was allotted to the School. There was a lease agreement entered with Rev.Mother Xavier A.C. Superior of Christ King Convent, Tambaram, for and on behalf of the Governing Body of the Apostolic Carmel Schools, which is an

Association under Act XXVI of 1860. An agreement was also entered on 25.04.1938 by the South Indian Railway Company Limited with the Christ King Convent, in which Clause 1(a) clearly states that the said land shall be utilised for the operation of the School and mainly for the benefit of the Railway employees and subject to the laws of the Municipal Authorities. The construction was made after the plans were approved by the then Southern Indian Railway Company Limited, as could be seen from the letter dated 10.09.1938. Subsequently, by letter dated 30.05.1961, the respondents-Railways sought for payment of occupation fee in advance, security deposit and they also asked for written consent in the format enclosed along with the said letter. By letter dated 16.03.1956, the respondents-Railways permitted the School to utilise a rent free playground attached to the Railway Institute, Tambaram. The petitioner built five blocks with the total constructed area of 17,464 Sq.Ft. and all the blocks were evenly spread over in the said leased out land. The Society spent several Lakhs of Rupees in constructing these blocks and the blocks have been constructed at various stages after obtaining permission from the respondents-Railways. There are about 1500 students studying the petitioner-School, which is recognised by the State Government and the School imparts education from Class I to Class 8. There are about 37 teachers working in the School, apart from seven non-teaching staff.

3. It is the further case of the petitioner that the School is one of the best schools in Tambaram and it also received an award in the year 2005. One of the former Headmistress has also received the National Award and another former Headmistress has also received the State Award. The School is mainly imparting education to the most downtrodden class and also to the children of the Railway employees. The School is paying the lease amount without default. The licence fee originally fixed at Re.1 per annum was periodically increased to Rs.1,000/- per annum and at present, the license fee of Rs.1,000/- per annum is being paid without any default. Suddenly, an exorbitant rate of Rs.58,62,547/- as licence fee for the period from 01.04.2001 to 31.03.2010, was claimed by the respondents-Railways by letter dated 21.01.2010. There was exchange of communications between the parties. The respondents-Railways issued letter dated 17.12.2010, in the form of termination of licence, and it was also suggested for an alternative location as shown in the sketch as per the latest policy and guidelines of Railways and they sought to pay the arrears of licence fee of Rs.58,62,547/- and a reply was sent on 25.03.2010 for re-considering the issue.

4. While so, the respondents-Railways issued notice under Section 4(2) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and the petitioner was asked to appear on

18.10.2010 for personal hearing. The said notice, which is dated 30.09.2010 was received by the petitioner only on 13.10.2010. Further, on 18.10.2010, the petitioner gave a representation seeking four weeks' time to present their case and also about their inability to shift about 1500 children. Even though adjournment was sought for, the fourth respondent, hastily, without even granting any reasonable time, passed an order under Section 5(1) of the said Act of 1971 and granted only 15 days' time. The fourth respondent proceeded to pass the order without even giving sufficient and reasonable opportunity, which is arbitrary. The action of the respondents-Railways is in violation of Sections 4(1) and 5 of the said Act of 1971. Though the notice was dated 30.09.2010, it was issued under Section 4 (1) in Form-A, which was served only on 13.10.2010, which is less than the period of seven days contemplated under Form-A prescribed under the said Act and that the action of the respondents-Railways is void-ab-initio and illegal.

5. It is the further averment of the petitioner that the fourth respondent ought to have noticed that the petitioner is running the School for about 75 years in an area of an acre and that about 1500 children are studying in the school, apart from 37 teachers and seven non-teaching staff and that it is impossible for the petitioner-School to find an alternative place within 15 days. Since the petitioner-institution is a minority institution, it is protected under Article 31 of the Constitution of India. There is no other efficacious alternative remedy except to approach this Court. Even though the alternative remedy has been provided under Section 9 of the said Act, the petitioner is constrained to approach this Court, in view of the date of eviction which was fixed on 22.01.2011. Hence, the petitioner has approached this Court invoking the extraordinary Writ jurisdiction for the relief stated supra.

6. The respondents 1 to 5 have filed counter affidavit stating that the petitioner has not exhausted the alternative remedy, and hence, the Writ Petition is not maintainable. Even on the merits of the matter, it is stated that the land belongs to the Railways, in which the School is being constructed without permission and that the land is urgently required in connection with the proposed project for coaching terminal at Tambaram to accommodate stabling lines and pit lines proposed in Phase-I at the cost of Rs.11.62 crores and that the contract has already been awarded by the construction organisation of the Railways. The work is held up for want of land. Due to enormous increase in the passenger and Rail traffic, it is absolutely imperative in the interest of the travelling public to commence and complete the said terminal work. Taking note of the fact that two existing terminals at Chennai Egmore and Chennai Central are saturated, it is imperative to develop the third

terminal at Tambaram to cater to the additional demand. The requirement of the land under occupation of the petitioner is therefore for public utility development, which will outweigh the requirement of the petitioner. The petitioner had accepted the title of the Railways to the subject land before the Estate Officer and stated that they would vacate the premises, but had only sought for time. It is stated by the respondents-Railways that the petitioner has violated the provisions of the agreement by effecting unauthorised construction in the Railway land. The petitioner has also violated the terms of the agreement by constructing the buildings with an area of about 30,000 Sq.Ft. unauthorisedly in the Railway land. It is clearly mentioned in paragraph 2(a) of the agreement that before proceeding to construct any building or other erection on the Railway land, prior approval of the Railways is necessary, which has not been followed by the petitioner.

7. It is further stated in the counter that it is mentioned in the agreement that if any dispute arises in future, the decision of the General Manager of the Railways will be final. The petitioner has not been paying the licence fee due to the Railways and has constructed the aforesaid area in three blocks and two annexe buildings without the permission of the Railways, which amounts to breach of the terms of the agreement and that the agreement is not in force as on date and the period of licence has not been specified in the agreement. As per Clause 6 of the agreement, the Railways is entitled to determine and put an end to the agreement by giving six months' notice and in case of breach of any condition, without notice, the Railways are empowered to proceed further.

8. It is further stated in the counter that the wards of the Railway employees studying in the School is meagre. The annual licence fee fixed at the time of agreement is Re.1/-, but it was periodically revised to Rs.100/-, Rs.300/- and Rs.1,000/- during the years 1962, 1984 and 1992 respectively. The licence fee was revised at the rate of 6% of the market value of the land as per the Railway Board's letter dated 10.04.2003 and the same was advised to the petitioner and the petitioner has failed to pay the revised licence fee and continued to deposit only Rs.1,000/- per year, which was not accepted by the Railways. The amount of arrears upto March 2012 was Rs.77,38,195/-. The petitioner having breached the terms of the licence, is liable to be vacated from the Railway premises as per the said Act of 1971.

9. It is further averred in the counter that there were several correspondences between the parties and that the petitioner has been asked to shift the School without causing any hindrance to the work of the Railways, but unfortunately, there was no response. There is an urgency to secure the

possession of the land under the occupation of the petitioner, since the Tambaram Yard has been identified for the development of a new coaching terminal with an outlay of approximately Rs.50 crores. After issuance of Form-A notice, as per Clause (b)(ii) of sub-section (2) of Section 4 of the said 1971 Act, personal hearing was given on 18.10.2010 and the petitioner attended the enquiry with two Advocates and accepted that the land belongs to the Railways. No action has been taken by the petitioner to vacate the Railway land. In view of the same, the respondents-Railways were forced to issue another notice in Form-B. It is also stated that the petitioner has constructed the permanent building consisting of four blocks without obtaining permission from the Railway Administration. Hence, it is clear that the petitioner is not entitled to any relief sought for by it.

10. The petitioner has filed reply affidavit to the counter by reiterating their stand and stated that it is false case of the respondents/Railways that only for the purpose of providing the proposed coaching terminal at Tambaram, the land occupied by the petitioner-School is required. It is stated that the request of the residents of Tambaram as well as other parts of the City, is to establish the coaching terminal at Royapuram. In fact, the request for establishment of terminal at Royapuram, has also been published in various newspapers. The respondents-Railways have not taken any steps for the same, but however, stated that they wanted to establish the coaching terminal at Tambaram. It is incorrect to state that without the permission of the Railway authorities, the petitioner has constructed only 17,464 Sq.Ft. and not 30,000 Sq.Ft. as stated in the counter affidavit. The children of the Railway employees are also studying in the School. The identity of the children is kept confidential and the same has not been disclosed to anyone. Only at the request of the Railway employees, whose wards are studying in the School, the details were not furnished to the respondents/Railways.

11. It is further averred by the petitioner in the reply affidavit that the licence fee was revised to 6% of the market value of the land as per the Railway Board's letter dated 10.04.2003 and that the petitioner continued to pay a sum of Rs.1,000/- per year, which has not been accepted by the Railway Board. It is incorrect to state that the arrears due from the petitioner till March, 2012, is Rs.77,38,195/-. The averment that the petitioner has breached the terms of licence and is liable to be evicted under the said Act of 1971, is not correct. The land is required for the purpose of upcoming new coaching terminal at Tambaram and not on the ground of non-payment of the arrears of licence fee. The respondents-Railways being Central Government, cannot ignore the fact that the petitioner-School is being run by minority institution with the aid from the

Government of Tamil Nadu fulfilling the requirements under Articles 21 and 21-A of the Constitution of India.

12. It is also stated by the petitioner in the reply affidavit that knowing that the petitioner-School is a non-fee levying School, which does not collect any fee from its students and is rendering free education to the poor children and especially to the wards of the Railway employees, the respondents-Railways cannot expect such exorbitant licence fee of Rs.77,38,195/-. Further, since the petitioner failed to pay the licence fee as demanded by the respondents/Railways, the respondents/Railways chose to take the shield of the alleged development of new coaching terminal and are bent upon evicting the petitioner. The place where the School is situated, is not required by the Railways for expansion. The petitioner-School further states that they never appeared before the respondents-Railways with two Advocates and did not agree to vacate the premises. The petitioner only gave a letter seeking four weeks' time to present their case. The entire proceedings initiated by the respondent-Estate Officer are in gross violation of the said Act and the relevant Rules and that sufficient opportunity has not been given to the petitioner. The School is being run regularly and evening classes are being conducted regularly to coach the poor students and the School is in existence for more than 77 years and cannot be thrown out merely for non-payment of licence fee demanded by the Railways and prayed for the relief in the Writ Petition stated supra.

13. To the above reply affidavit of the petitioner, the Railways have filed reply affidavit, dated 07.12.2017 stating that at no point of time, the Railways have expressed that it is suffice that 440 Sq.Ft. of land alone is required for the project. The Railways further states that the petitioner is an unauthorised occupant in the Railway premises and the entire area occupied by the petitioner is required for implementation of the third terminal at Tambaram for the convenience of operation of the trains. The Railways have demolished 300 quarters occupied by the Railway staff for the purpose of the project. The petitioner has constructed the buildings without obtaining proper permission from the Railway Administration, which is admitted in the letters sent by the petitioner. Being an unauthorised occupant and having illegally constructed the buildings without obtaining any permission from the Railways, the petitioner is not entitled for any compensation. Only due to the pendency of the Writ Petition before this Court for the last six years, the Railway Administration is not able to complete the third terminal project at Tambaram.

14. Heard both sides and perused the materials available on record.

15. As the Writ Petition is of the year 2011 and that the petitioner-School has not stated that they are willing to work out their alternative remedy and that they have specifically contended that this Court alone can grant the relief, this Court is not inclined to dismiss the petition on the only ground that the petitioner has got an alternative remedy under Section 9 of the said Act of 1971 and this will not give finality to the litigation. If the Writ Petition is going to be dismissed only on the sole ground of alternative remedy, it is only the Advocates who will be benefited. Since detailed arguments have been advanced on the merits of the matter, this Court is inclined to take up the matter and decide the same, de-hors the alternative remedy, as the issue is of public importance. Alternative remedy is not a bar to entertain this Writ Petition, more particularly when the Writ Petition is pending for more than five years.

16. It is seen that there is a communication dated 23.07.1937 from the President of the Chingleput District Educational Council, Saidapet, to the Correspondent of the Christ King School, Tambaram, recognising Classes 1 to 4 and further stating that there will be a separate communication with regard to Standard 5. It is further seen that there is an agreement enclosed along with the letter dated 11.06.1957, giving licence for use of the Railway land. The relevant portion of the said agreement reads as follows:

"

WHEREBY it is agreed as follows:

1(a): The Licensee shall have the use of the piece of land described in the schedule hereto for the purpose of constructing at her own costs ... a neat and tidy way and maintaining thereon a temporary school building other erection, mainly for the benefit of Railway employees (children.... reference to others subject to such rules, regulations and bye-laws as may from time to time be made by or on behalf of the Administration ... by or on behalf of any local or Municipal authority and subject to ... conditions hereinafter contained.

.. .. .

2(a) The Licensee shall, before proceeding to construct any building or other erection on the said land, give notice, in writing thereof, to the Agent in India for the time being of the Administration (HEREINAFTER referred to as the said Agent) specifying the proposed site the convenience intended to be constructed and furnish to him a detailed plan elevation and specification of such convenience and the Licensee shall not construct such convenience save on

such site and in accordance with such plan elevation and specification thereof as shall ... be approved by the said Agent.

....

6. The privileges in clause 1(a) hereof are granted on the express understanding that either party may be at liberty to determine and put an end to this license ordinarily, by giving to the other of them at any time, six calendar months' notice in writing and in case of breach of any of the conditions herein set forth, immediately, without any notice. In the former case the Licensee shall be entitled to a refund of the sum leviable for the unexpired portion of any particular year of the license at the stipulated rate; and in the latter case the said amount shall be forfeited to the Administration as ascertained liquidated damages.

....

8. Nothing herein contained shall be construed to create a tenancy in favour of the Licensee of the said premises and the Administration ... of their mere motion upon the determination of this licensee, re-enter upon and re-take and absolutely retain possession of the said land.

....."

17. The licensee, namely the School, has already used the piece of land for permanent School building and not for temporary building. The School will have to obtain prior permission from the Railways before construction of any other structure in terms of Clause 2(a) of the agreement extracted supra. Both parties are at liberty to determine the licence including the termination of tenancy. By communication dated 16.09.1998, the Railways have sought for clarification from the School as to the status of permission obtained from Railways with regard to the pucca construction. For that, the School has replied, vide letter dated 23.09.1998 that there was no building permission obtained and that the month of May being summer holidays, they have decided to demolish and construct a building. It is also stated by the Headmistress in the said letter dated 23.09.1998 that they did not know that they have to write and ask for permission. Since the School building was in a bad condition, it has been stated that they have been advised to raze it down and build again.

18. There is another communication, dated 28.11.1998 addressed by the Southern Railway to the Headmaster of the petitioner-School, asking them to send a proposed building plan

with the other relevant details to take further action. The proposal has been forwarded by communication dated 19.02.2007 of the Southern Railway, wherein the Railways sought for details with regard to the construction of the building, apart from seeking revision of licence fee. On 10.07.2007, a communication was sent to the Railways by the petitioner-School, stating the need and urgency for putting up new blocks, as class rooms were leaking during rainy season and the children needed a safety place to learn their daily lessons and they wanted to construct and complete the work before the monsoon started. It is further stated therein that the built-up area is 17,464 Sq.Ft. Further, by communication dated 05.10.2007 addressed to the Railways, the School sought for permission to pay the revised fee from the current year. As no consensus was arrived at between the parties, on 20.12.2008, the Southern Railway has communicated to the petitioner that the extent of land leased for the School in the Railway Colony, East Tambaram is required for the proposed coaching terminal (third terminal) at Tambaram and that the communication may be treated as notice so that they can vacate the premises.

19. It is further seen that a notice under Form-A, dated 30.09.2010, had been issued by the Southern Railway stating that in view of the upcoming of new coaching terminal at Tambaram, the petitioner-School was required to vacate the land occupied by the School, which legally belonged to Railways and the petitioner-School has been issued with a show cause notice. Thereafter, on 18.10.2010, the School sent reply stating that they are in receipt of the notice of proposed eviction and requested four weeks' time to present their case detailing the facts of their occupancy of the premises since 1938 and their predicament being unable to shift the premises with over 1500 children on the rolls of the School. As the place was not vacated, a notice under Form-B, dated 17.12.2010 was issued by the Southern Railway to the petitioner-School, wherein it is stated that the School authorities appeared for personal hearing on 18.10.2010 and that the School did not produce any authentic land owning documents or any valid authority/licence to continue in the Railway premises and the occupation of the School is termed therein as unauthorised. Therein, the School was given 15 days' time from the date of publication of the said Form-B to vacate the premises.

20. From the aforesaid discussion, it is clear that the land in question belongs to the Railways and the petitioner-School is a licensee. Admittedly, permanent structure has been put up without the permission of the Railways. The non-payment of enhanced licence fee may be a ground for eviction, but that cannot be the only ground to vacate the premises. The place in question is required by the Railways for establishing coaching

terminal (third terminal). The two grounds, namely non-payment of licence fee and unauthorised occupation, alleged by the Railways for requiring the place, are independent of each other. It cannot be construed by any stretch of imagination that on account of non-payment of licence fee, the respondents-Railways are trying to evict the petitioner on the ground of expansion of Railways at Tambaram. Whether the coaching terminal has got to be set up at Royapuram or any other place, is a policy decision of the Railways, which cannot be questioned by the petitioner, unless the same is arbitrary. In this case, there is no arbitrariness on the part of the Railways. The permanent structure has been put up in the Railway land without the permission of the Railways. In fact, in one of the aforesaid communications, it has been stated by the Headmistress that they are not aware that they should obtain prior permission before construction. Thereafter, they started writing communication seeking permission to construct the building. Six months' time has to be given by either of the parties to terminate the agreement. In this case, more than six months' time had been given. Even assuming for the sake of argument that the notice dated 30.09.2010 is well short of seven days as required, and now more than seven years have gone by, to put it precisely, more than a decade has gone by.

21. It is no doubt true that the children's education is important. So also, the expansion of Railways for establishing coaching terminal is of public purpose, which is also of paramount importance. Having received the notice from the Railways, the petitioner-School is illegally occupying the place in question and the petitioner ought not to have admitted the students during the subsequent academic years. If they have stopped the admission of students, the students would not have entered the School ten years ago and the students would have completed education in that School. Having obtained interim order from this Court in this Writ Petition and admitting students in the School, which has already been asked to vacate by the Railways and trying to justify the action by projecting the education as paramount importance, shows audacity of the petitioner. The contentions raised by the petitioner-School are with ulterior motive and their intention appears to be not to vacate for ever. The Court will not try to tolerate the illegality, more particularly which has been done by the petitioner in this case under the guise of interim order. Pursuant to the interim order, the petitioner ought not to have admitted the children in the School. After the outcome of the Writ Petition, they should have accommodated the children in the School, if the Writ Petition ended in favour of the petitioner-School. The eviction proceedings alone has been stayed by this Court. When once the eviction proceedings are stayed, it does not mean that the School can continue with the admission, as the

result of the Writ Petition may be either in favour of the petitioner or in favour of the respondents-Railways. If at all anyone has to be blamed, it is the institution, which has admitted the students in the School and the School is a trespasser in the Railway's land. Having violated the entire conditions of agreement and putting up permanent structure and trying to occupy the premises continuously for ever, cannot be tolerated by anyone, much less this Court. The action of the petitioner is not bona-fide. It appears that under the guise of licence, the petitioner is trying to grab the land. They cannot only be termed as trespasser, but can also be called as land grabber.

22. Learned counsel for the respondents/Railways relied on the following decisions:

(a) 2005 (1) MLJ 453 (Division Bench of Madras High Court) (Thayal Nayagi Vs. Union of India):

"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 unauthorised occupants from public property. Decent people vacate the premises when the period of lease or license expire. When a person does not behave in a decent manner, the only way left is to forcibly thrown 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. Hence, we see no reason to interfere with the judgment of the learned single Judge, which is eminently just and fair. The writ appeal is dismissed. Consequently, W.A.M.P.No.179 of 2005 is also dismissed."

(b) 2011 (4) LW 691 (T.S.Sankara Iyer & Sons Vs. Union of India):

"19. In my considered opinion, the principle stated in the said judgment cannot be made use of in the instant case to hold that the order made by the Estate Officer is void. It is needless to point out

that after the 44th Amendment to the Constitution, to acquire, hold and dispose of a property is no more a fundamental right and it has become a mere Constitutional right. Therefore, assuming that no enquiry was held and no opportunity was given to the appellant as required under Section 5 and Rule 5, even then, on that score, the impugned order cannot be held to have violated any of the Fundamental Rights of the appellant so as to hold the same as void. At the most, it may be held that non-observance of the said procedure resulting in the final order under Section 5 will tend to infringe only the Constitutional right of the appellant as dealt with under Article 300-A of the Constitution. Mere non observance of certain procedures contemplated in the statute violating a mere constitutional right may, at the most, render the order unsustainable and the same, at any rate, shall not render it void. Thus the impugned order in this case cannot be held to be void."

"24. Here in the Act in question, there are two provisions which bar the jurisdiction of the Civil Court expressly. Apart from that there is also remedies available for the aggrieved under the Act itself. If the appellant is aggrieved by the order made under Section 5, he can very well prefer an appeal. Thus, there is sufficient mechanism in the Act providing remedy against the order made under Section 5 of the Act.

28. Thus, it is not a case where there was no enquiry at all held, but in fact, enquiry was held on 20.12.1982. Even according to the appellant, enquiry was abruptly closed and sufficient opportunity was not given to him. There is a vast difference between no opportunity and insufficient opportunity. It is only in a case where no opportunity was given at all, on the ground of violation of the principles of Natural Justice, the said order can be held to be unsustainable. But in this case, it is alleged that insufficient opportunity was given. In such situation, the remedy for the aggrieved is only to prefer an appeal. The Hon'ble Supreme Court on more than one occasion has held that in a case where there is total violation of the principle of Natural Justice, the High Court can entertain a writ petition under Section 226 of the Constitution without directing the party to work out his alternative remedy. But in this case, assuming that insufficient opportunity was given, even then the remedy is only to file an appeal under the Statute. In such view of the matter, in the present case, I hold that on

20.12.1982, enquiry was held in which the appellant participated and therefore it cannot be said that there is violation of the principles of Natural Justice."

23. As held by the Division Bench of this Court in the judgment reported in 2005 (1) MLJ 453 (cited supra), the decent people vacate the premises when the lease period or the licence period expires and 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 of 1971 was enacted and the same object has got to be achieved only by throwing out the unauthorised occupant.

24. Since, in the case on hand, the children are studying in the petitioner-School, this Court does not want them to be disturbed during the present academic year. It is made clear that the petitioner-School shall vacate the premises in question immediately after the end of the present academic year, preferably on or before 15.06.2018. This Court makes it clear that no further admission of students shall be done in the present premises of the petitioner-School, by stating that the children are going to be affected, and if any disturbance is caused to any of the children, the School will be solely responsible to place the students in a different School, apart from paying compensation to the parents. Though this is a fit case for imposing costs of not less than Rs.2 lakhs on the petitioner-School, taking note of the contention that poor children are imparted education in the petitioner-School, that too, at free of cost, this Court is not imposing any costs on the petitioner-School.

25. If the petitioner-School does not vacate the premises before the time stipulated above by this Court, the petitioner shall have to pay costs of Rs.2 lakhs (Rupees two lakhs only) to St.Louis Institute for Deaf & Blind, No 25, Canal Bank Road, Gandhi Nagar, Adyar, Chennai - 600020. [Near Old Cancer Hospital & Kotturpuram Railway Station] Phone Nos: 044-24910886, 24421315, Cell No. : 9003152064. Further, it is open for the petitioner to accommodate the children now studying in petitioner-Christ Kind Middle School, Railway Colony, Tambaram East, Chennai, in any one of the two other Schools situated nearby, i.e. Christ King Girls Higher Secondary School at Velacherry Main Road and Christ King Matriculation School, MES Road, East Tambaram. The Railways are directed to inform the TANGEDCO (TNEB) of the area where the petitioner-School is situated and if the petitioner-School continues after the date specified in this order, the electricity connection shall be disconnected forthwith from 16.06.2018 to the entire School.

This is in addition to the other action that may be initiated by the Railways against the petitioner or other persons who are responsible to comply with this order. Within 30 days from the date this order copy is made ready, the petitioner-school authorities shall inform all the parents to enable them to shift their wards to some other School of their choice by getting the Transfer Certificate from the petitioner-School.

26. With the above observations and directions, the Writ Petition is dismissed. No costs. Consequently, the miscellaneous petitions are closed.

27. The Registry is directed to mark a copy of this order to the Chairman, TNEB, Anna Salai, Chennai to enable him to inform the local TANGEDCO office where the petitioner-School is situated.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

cs

To

1. The General Manager,
Union of India, Ministry of Railways,
Southern Railway, Chennai-600 003.
2. The Principal Chief Engineer,
Southern Railway,
Chennai-600 003.
3. The Divisional Railway Manager,
Chennai Division,
Southern Railway,
Chennai-600 003.
4. The Additional Divisional Railway Manager
-cum-Estate Officer,
Chennai Division,
Southern Railway,
Chennai-600 003.

5. The Senior Divisional Engineer/Coordination,
Chennai Division,
Southern Railway,
Chennai-600 003.

6. The Secretary to Government,
Department of School Education,
Government of Tamil Nadu,
Fort St.George, Secretariat,
Chennai-600 009.

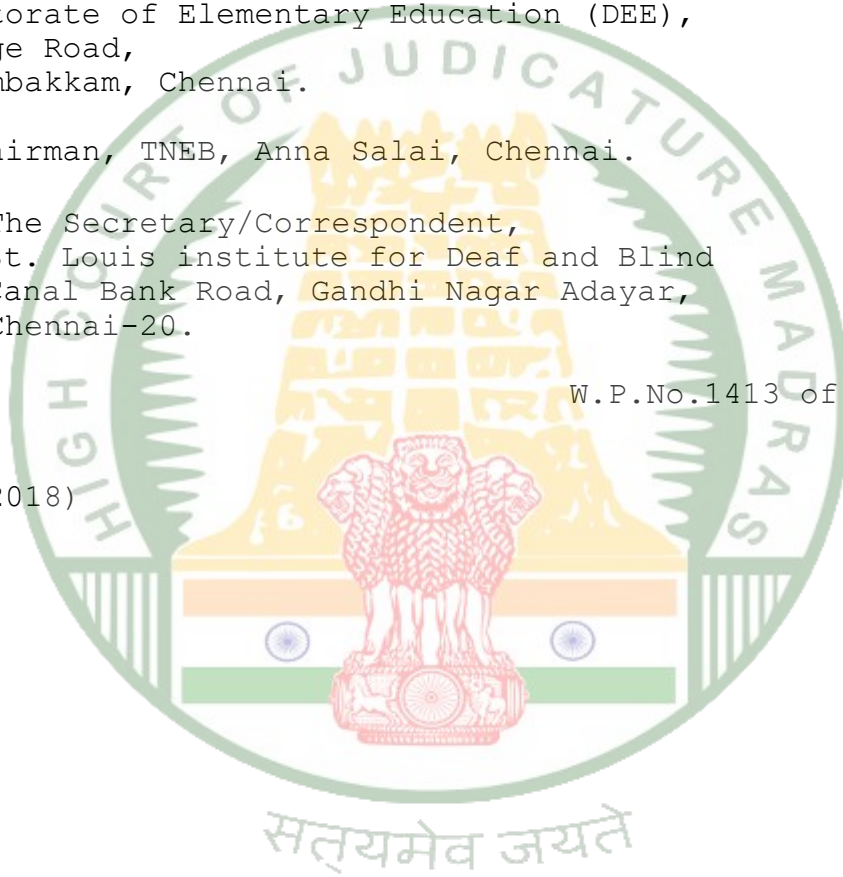
7. The Director,
Directorate of Elementary Education (DEE),
College Road,
Nungambakkam, Chennai.

8. The Chairman, TNEB, Anna Salai, Chennai.

Copy to: The Secretary/Correspondent,
St. Louis institute for Deaf and Blind
Canal Bank Road, Gandhi Nagar Adayar,
Chennai-20.

W.P.No.1413 of 2011

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