

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.27472 of 2017
and
W.M.P.No.29361 of 2017

Selva Rajendran @ Selvam
Proprietor,
Gnanansoundari Ice factory,
No.3, T.H.Road,
New Washermanpet,
Chennai- 600 081 ... Petitioner

Vs.

1. The Managing Director,
Chennai Metro Rail Limited,
Koyambedu, Chennai - 600 107

2 J.Nooruddin

(R2 impleaded as per order dated 30.11.2017
by KRCBJ in WMP 34267/2017 in W.P.27472/2017 ... Respondents

PRAYER: Writ petition filed under Article 226 of the
Constitution of India praying for issuance of Writ of
Mandamus forbearing the respondent, their men, officials,
servants, or anybody claiming through them from evicting the
petitioner from the premises at No.3, T.H.Road, New
Washermanpet, Chennai - 600 081, wherein running "Gnanasoundari
Ice Factory"except due process of law.

For Petitioner: Mr.V.Prakash
Senior Counsel for
Mr.M.Kamalanathan

For Respondents: Mr.R.Thiagarajan, Senior counsel
for Mr.Jayesh B.Dolia for R1
Mr.A.S.Baradhi for R2

O R D E R

The petitioner seeks for a Mandamus forbearing the
respondent, their men, officials, servants, or anybody claiming
through them from evicting the petitioner from the premises at
No.3, T.H.Road, New Washermanpet, Chennai - 600 081.

2. Heard Mr.V.Prakash, the learned senior counsel for the petitioner, Mr.R.Thiagarajan, learned senior counsel appearing for the first respondent and Mr.A.S.Baradhi, learned counsel appearing for the second respondent, owner of the premises.

3. The petitioner, admittedly, is the tenant under the second respondent in respect of the subject matter premises. The Metro Rail wants to take possession of a portion of the said property permanently and a portion of the property temporarily for the purpose of Metro Rail Project. Though the second respondent/ owner seems to have given consent for taking possession of the property temporarily, the tenant who is in occupation of the disputed portion is objecting and hence, he filed the present writ petition by contending that he cannot be evicted without following due process of law. It is also seen that the Rent Control proceedings filed by the second respondent/owner, for eviction of the petitioner is pending before the competent Court/Forum.

4. This Court is not inclined to express any view on the issue pending in eviction proceeding as the present writ petition and the prayer sought for therein are only for preventing the first respondent from evicting the petitioner except by due process of law and not against the second respondent who has already approached the competent Rent Control Authority for seeking eviction of the petitioner.

5. Learned senior counsel appearing for the first respondent/ Metro Rail submitted that it has power to direct temporary evacuation/eviction of all persons together with all movable properties in the premises as provided under Section 21 of the Metro Rail Construction Act and therefore, the petitioner is not entitled to contend otherwise. However, it is fairly submitted by him that so far the proceedings as required under Section 21 of the said Act has not been resorted to against the petitioner.

6. When that being the position, it is for the first respondent to resort to the proceedings as contemplated under the above said provision of law against the petitioner. By granting such liberty to the first respondent, this writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

The Managing Director,
Chennai Metro Rail Limited
Koyambedu
Chennai - 600 107

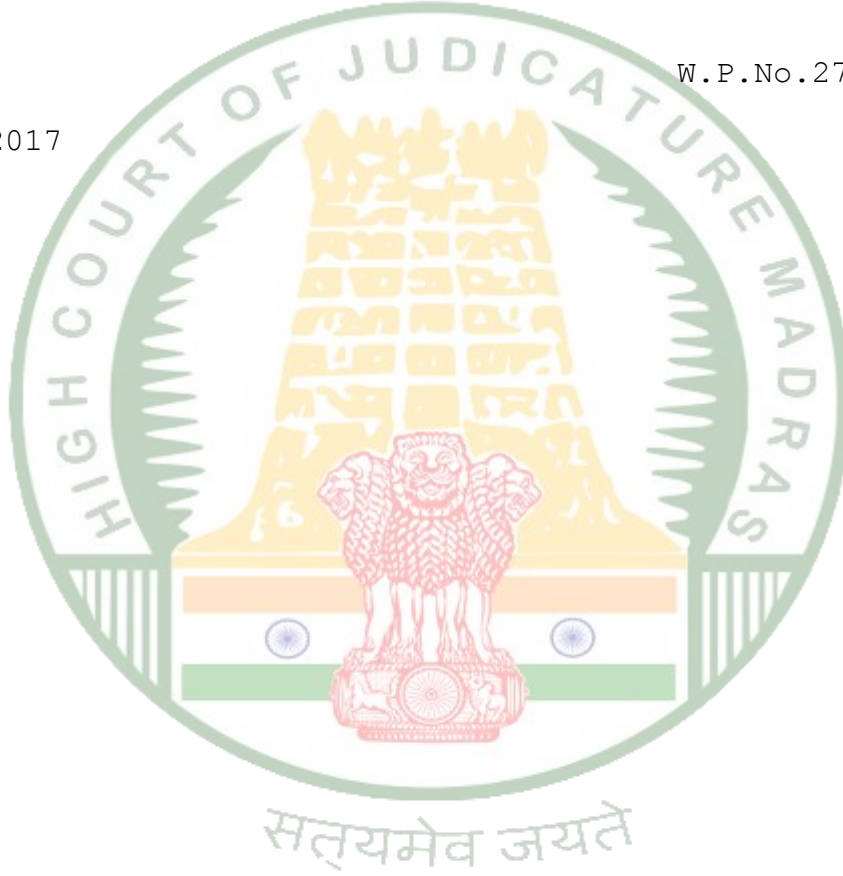
+ 1 cc to Mr.M.Kamalanathan Advocate,SR.87108

+ 1 cc to Mr.Jayesh B.Dolia Advocate,SR.87329

+ 1 cc to Mr.A.S.Baradhi Advocate,SR.87135

W.P.No.27472 of 2017

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