

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2017

CORAM :

THE HONOURABLE MR. JUSTICE P.D.AUDIKESSAVALU

WRIT PETITION No.38593 of 2003
and
W.P.M.P. Nos.46824 of 2003
W.M.P.No.892 of 2004
W.M.P.No.20231 of 2017

Mrs.Boopatha ... Petitioner

Vs.

1. The Estate Officer,
Divisional Office, Works Branch,
Southern Railway, Palghat, Kerala.
2. The Assistant Divisional Officer,
South /Salem,
Southern Railway, Salem Junction,
Salem.
3. The Deputy Superintendent of Police,
Government Railway Police, Salem. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the orders dated 6.9.2003 and 16.12.2003 passed by the first respondent in his office Ref. No.J/W.274/2/MTDM/1/C.Boopatha and the letter dated 17.12.2003 passed by the second respondent in his office Ref. SA/11/L.3, quash the same and forbearing the respondents herein, their subordinates and agents from in any manner evicting the petitioner from her residential house in Block No.63 bearing Door No. 37/14A2 Salem Main Road, Mettur Dam R.S., Mettur Dam-636 402.

For Petitioner : Mr. P.Mani

For Respondents : Mr.P.T.Ramkumar
Standing Counsel (For Southern
Railway)

O R D E R

The relief sought for in this writ petition is for calling for the records relating to the order dated 6.9.2003 and 16.12.2003 passed by the first respondent in his office Ref. No. J/W.274/2/MTDM/1/C. Boopatha and the letter dated 17.12.2003 passed by the second respondent in his office Ref. SA/11/L.3, quash the same and forbear the respondents herein, their subordinates and agents from in any manner evicting the petitioners from their residential house in Block No.63 bearing Door No. 37/14A7 Salem Main Road, Mettur Dam R.S., Mettur Dam - 636 402.

2. The petitioner in this writ petition filed the W.M.P. No. 20231 of 2017 seeking to withdraw the writ petition with a liberty to file appeal under Section 9 of the Public Premises (Eviction of Unauthorised occupants) Act 1971 (hereinafter called "the Act") against the impugned order passed under Section 5 (2) of the said Act within the time that is fixed by this Court and to direct the appellate authority to take the appeal on file.

3. The impugned order has been passed on 17.12.2003 and the time limit for filing appeal under Section 9(2) of the Act is 12 days from the date of the receipt of the copy of that order. The writ petition had been filed on 29.12.2003, which is within the prescribed period of limitation. The writ petition has been admitted by this Court on 29.12.2003 and the present application has been filed seeking to withdraw the writ petitions with liberty to file the appeal as provided under the Act, which is an effective alternative remedy. Hence, leave is granted to the petitioner to withdraw the writ petition and prefer appeal within a period of 12 days from the date of receipt of a copy of this order.

4. The original copy of the impugned order shall be returned to the petitioner. The registry is directed to make a copy of the impugned order and return the original impugned order to the petitioner under due acknowledgment.

5. In the event of the petitioner filing such appeal before the appellate authority within prescribed time limit, the appellate authority shall take them on file and dispose of the same on merits and in accordance with law within a period of two months.

6. The petitioner shall not be disturbed from possession till a period of 12 days from the date of receipt of a copy of this order.

7. In view of the order passed in W.M.P.No. 20231 of 2017, the writ petition stands disposed of accordingly. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mayaya

To

1. The Estate Officer,
Divisional Office, Works Branch,
Southern Railway, Palghat, Kerala.
2. The Assistant Divisional Officer,
South /Salem,
Southern Railway, Salem Junction,
Salem.
3. The Deputy Superintendent of Police,
Government Railway Police,
Salem.

+1cc to Mr. P.Mani, Advocate, S.R.No.52048

+1cc to Mr.P.T.Ramkumar, Advocate, S.R.No.51738

W.P.No.38593 of 2003

PA (CO)
CS/21/08/17

सत्यमेव जयते

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