

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2018

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.No.3624 of 2018
and
WMP Nos.4455 to 4457 of 2018

J.Khadar Nawaz

... Petitioner

vs.

1. The Estate Officer & Principal Chief Engineer,
Integral Coach Factory (ICF),
Chennai 600 038.

2. The Assistant Executive Engineer,
Shell Division,
Integral Coach Factory (ICF),
Chennai 600 038.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records and quash the impugned Form 'B' Order No.W/W.15 dated 01.02.2018 issued by the first respondent as ultra vires, illegal and unconstitutional.

For Petitioner : M/s.M.G.Rajeswari
For Respondents : Mr.P.T.Ramkumar
Standing Counsel

सत्यमेव जयते
O R D E R

The petitioner is aggrieved against an order dated 01.02.2018, issued by the first respondent, calling upon the petitioner to vacate the premises within 15 days.

2.After notice, this matter was taken up for further hearing today. It is the contention of the petitioner that the impugned order was passed in violation of the principles of natural justice and that the eviction order was passed without following the provisions of law.

3.On the other hand, the learned Standing counsel for the respondents, after inviting this Court's attention to the Form-A

Notice dated 23.01.2018 and the explanation given by the petitioner to the said notice followed by passing the impugned order on 01.02.2018, submitted that the allegation of violation of the principles of natural justice is factually incorrect. Apart from saying so, the learned counsel further submitted that the very writ petition itself is not maintainable against the order of the first respondent issued under Section 5(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, since a statutory appellate remedy is available to the petitioner under Section 9 of the said Act to file an appeal before the District Court. Therefore, the learned counsel submitted that the writ petition is liable to be dismissed on the ground of maintainability.

4. Perusal of the facts and circumstances and the impugned order passed under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, would show that the same was passed after affording an opportunity of hearing to the petitioner and therefore, there is no violation of the principles of natural justice. Under the above factual position, the next question that would arise is as to whether this Court can entertain the writ petition any further, as it is stated that a statutory appellate remedy is available to the petitioner under section 9 of the said Act. There is no difficulty in answering the said question against the petitioner, since the order under challenge is the one passed under the relevant enactment, where the statutory appellate remedy is made available to the petitioner under Section 9 of the said Act. Needless to say that the Appellate Authority being the fact finding authority, it is for the petitioner to canvas all the points raised herein before such Appellate Authority by filing such appeal. Without doing so, the petitioner is not entitled to pursue this writ petition any further. Accordingly, this writ petition is disposed of, without expressing any view on the merits of the claim made by the petitioner, however by granting liberty to the petitioner to file such appeal before the Appellate Authority within a period of two weeks from the date of receipt of a copy of this order. If any such appeal is filed, the same shall be considered and orders shall be passed by such Appellate Authority on its own merits and in accordance with law without reference to the period of limitation. No costs. The connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vri

To

1. The Estate Officer & Principal Chief Engineer,
Integral Coach Factory (ICF),
Chennai 600 038.
2. The Assistant Executive Engineer,
Shell Division,
Integral Coach Factory (ICF),
Chennai 600 038.

+1cc to Mr.P.T.Ramkumar, Advocate, S.R.No.14280

+1cc to Mr.T.V.Vineeth Kumar, Advocate, S.R.No.14381

W.P.No.3624 of 2018

RJ(CO)
CS/14/03/18



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