

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.05.2018

CORAM :

The Hon'ble Dr.JUSTICE G.JAYACHANDRAN

W.P. No.11699 of 2018
and W.M.P.Nos.13669 and 13670 of 2018

1.R.Veeramuthu
2.S.Sreenivasan
3.S.Dhavabalan
4.G.Govindaraj
5.P.Ayyanar
6.Myelai Mary
7.P.Arumugam
8.Masthanayya

... Petitioner

-vs-

Estate Officer,
Officer of the Principal Engineer,
Integral Coach Factory,
Chennai 600 038.

.. Respondent

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records pertaining to the notice No.W/W/21 dated 05.04.2018 issued by the Respondent, and quash the same on the ground of it being violative of the principles of natural justice, arbitrary exercise of power, non-application of mind, violative of Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and direct the Respondent to give us the opportunity of being heard and pass a speaking order.

For Petitioner : Mr.SP.Srinivasan

For Respondent : Mr.V.Kathirvelu
Spl. Govt. Pleader

O R D E R

The petitioners herein, who are occupants of a public premises, suffer an order of eviction dated 05.04.2018 passed by the Estate Officer, Integral Coach Factory, under Section 5-A (2) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

2.A reading of the impugned order reveals that show cause notice was issued to the petitioners as early as on 19.01.2015 to remove the unauthorised occupation of the public premises and thereafter, considering the representation given on behalf of the petitioners, time was granted for them to vacate the premises voluntarily. However, the petitioners herein, have not vacated the public premises and thereafter, after considering the merits of the case, the impugned order has been passed directing the petitioners to remove the building/structure/huts on the public premises mentioned in the schedule on or before 30.04.2018 or to show cause why they should not be removed on or before the said date.

3.The grievance of the petitioners herein is that the said impugned order dated 05.04.2018 was received by them through post only on 25.04.2018. Though statute prescribes seven (7) days notice for eviction, the said impugned order does not comply with the said statutory requirement.

4.On a perusal of the record, this Court finds that since 2015, the Estate Officer had endeavoured to evict the petitioners from the public premises, but after considering their request to extend the time for seeking alternate accommodation, sufficient time has been granted to them and thereafter, after three years, the impugned order dated 05.04.2018 has been passed. Though the impugned order is dated 05.04.2018, time to vacate is granted till 30.04.2018, which is totally in compliance with the statutory requirement prescribed under Section 5-A (2) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

5.However, now the contention of the petitioners is that the said order was received by them only on 25.04.2018. Therefore, 7 days time for eviction is not complied with. In any event, the respondent has not evicted them till date. It is also open to the petitioners either to prefer an appeal against this order under Section 9 or to vacate voluntarily since 7 days time, even, according to him, has lapsed by now. This Court cannot sit upon the merit of the impugned order under Article 226 of the Constitution of India when there is a statutory remedy available to the petitioner herein.

6.Any appeal is intended to be filed by the petitioners, the limitation normally will be reckoned from 25.04.2018, the date on which the impugned order has been received by the petitioner. Since the petitioner has approached the wrong forum, the time spent shall be excluded under Section 14 of the Limitation Act and the limitation for preferring the appeal shall reckon from today.

This writ petition is dismissed with the above observation.
No costs. Consequently, W.M.P.Nos.13669 and 13670 of 2018 are
also dismissed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sra

To

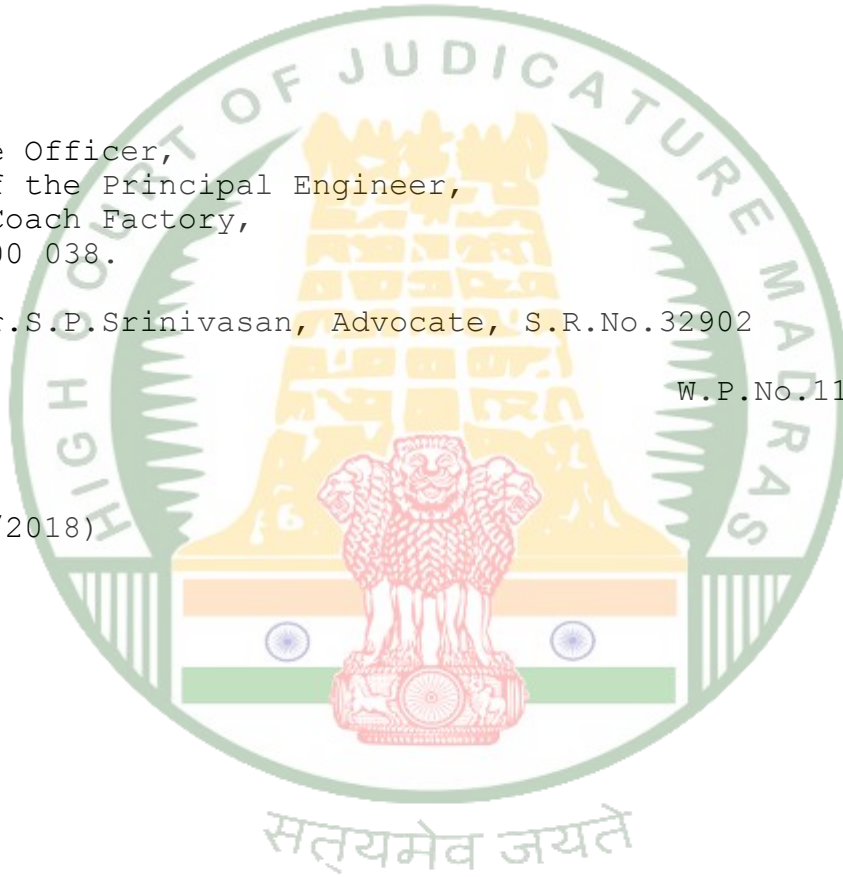
The Estate Officer,
Officer of the Principal Engineer,
Integral Coach Factory,
Chennai 600 038.

+2cc to Mr.S.P.Srinivasan, Advocate, S.R.No.32902

W.P.No.11699 of 2018

SKV (CO)

RRK (04/05/2018)



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