

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12..09.2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.24052 of 2018

and

W.M.P.Nos.28026 to 28030 of 2018

Liyakath Ali

... Petitioner

-Versus-

1.The Commissioner,
Coonoor Municipality,
Coonoor.

2.The Revenue Officer,
Coonoor Municipality,
Coonoor.
... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the notice issued by the 1st respondent in Na.Ka.No.3704/2003/A4 dated 29.08.2018 and forbearing the respondents from taking any steps to evict the petitioner from the leased out premises situated at Door No.10199, New Building, Municipal Bus Stand, Coonoor-643102.

For Petitioner

:

Mr.K.Karthik Ranganathan

For Respondents

:

Mr.P.Srinivas, Standing Counsel for R1 and R2

ORDER

Challenging the eviction notice issued by the 1st respondent in Na.Ka.No.3704/2003/A4 dated 29.08.2018, the petitioner is before this court. The petitioner also seeks to issue a writ of mandamus forbearing the respondents from evicting the petitioner from the leased out premises.

2. The property in question belongs to the respondent Municipality and the same was originally leased out to the petitioner for running lodging house for a period of three years from 1989 to 1992. The leased period got expired on 31.03.1992 itself. Therefore, the respondent municipality had issued a notice to the petitioner to vacate and handover the premises. Challenging the above said eviction notice, the petitioner filed a suit in O.S.No.140 of 1993 before the learned District Munsif, Coonoor for a declaration that the notice is not valid and the suit was dismissed on 29.01.2004. Aggrieved by the same, the petitioner preferred an appeal in A.S.No.36 of 2004 before the learned Subordinate Judge, Coonoor which also got dismissed on 18.10.2004. Aggrieved by the same, the petitioner preferred a further appeal in S.A.No.79 of 2005 before this court and a learned single

Judge of this court on 14.11.2011 had passed an elaborate judgement and dismissed the second appeal. Thus, the eviction notice issued by the respondents as early as on 22.03.1993 had become final. Though the lease got expired as early as on 31.03.1992, the petitioner did not choose to vacate and handover the premises and he continues to be in possession till today. In the said circumstances, the respondent Municipality has issued the impugned notice requiring the petitioner to vacate and handover the property in question. It is this notice which is now challenged in the instant writ petition.

3. Heard both sides.

4. The learned counsel for the petitioner submitted that the impugned notice has been issued setting up a false ground that the building is in a dilapidated condition and the respondent is going to demolish the same and put up new construction.

5. Admittedly, the property in question was leased out to the petitioner for a period of three years from 01.04.1989 to 31.03.1992 and the lease got expired as early as on 31.03.1992. After the expiry of lease period on 22.03.1993, the possession of the petitioner was that of a tenant at sufferance and therefore, the respondent municipality had issued a notice to the petitioner requiring him to vacate and handover the possession of the premises by 31.03.1993, but the respondent did not do so. Challenging the same, the petitioner approached the civil court and taking advantage of the pendency of the civil proceedings, the petitioner has been in possession all along. As already stated above, the suit was dismissed on 29.01.2004, appeal was dismissed on 18.10.2004 and the second appeal was also dismissed on 14.11.2011. Even thereafter the petitioner did not choose to vacate and hand over the premises and has been squatting on the premises without having any semblance of legal right.

6. At this juncture, the learned counsel for the petitioner submitted that the building in question is in a stable condition and the petitioner has been paying rent regularly all these years and there is no arrears of rent as on today and having not taken any steps from 2011 to evict the petitioner, the respondents are estopped from stating that they need possession of the property as if the condition of the building is not stable. Though attractive, this argument does not persuade this court for the simple reason that though the lease got expired as early as on in the year 1992 all these years, the petitioner has been in possession taking advantage civil suit and the appeals one after the other. Ultimately, the last appeal was dismissed in the year 2011. It is the settled law that after the expiry of the lease, the possession of the petitioner is illegal and unauthorized. In a similar circumstance, when a notice of eviction issued by the respondent municipality came to be challenged in W.P.No.18095 of 2018, while dismissing of the writ petition on 27.07.2018, a learned single Judge of this court [Justice K.Kalyanasundaram] has held as follows:

"Considering the fact that the building is in a dilapidated condition, the petitioner is directed to vacate the premises and handover the possession to the respondent-Municipality, on or before 27.08.2018, provided if he furnished an affidavit of undertaking to the respondent to that effect. In the mean time, if any untoward incident happens, the petitioner would be held responsible."

7. In view of the above, the petitioner in the instant case has no right to remain in occupation of the property belonging to the respondent municipality in the absence of a valid lease. Thus, this court finds no illegality or irregularity in the impugned order and the writ petition deserves only to be dismissed.

8. In the result, the Writ Petition is dismissed. The respondents are directed to take immediate steps to evict the petitioner from the premises. No costs. Consequently, connected WMPs are closed.

Index : yes / no 12..09..2018
Internet : yes / no
Speaking / Non Speaking Order
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To

- 1.The Commissioner, Coonoor Municipality, Coonoor.
- 2.The Revenue Officer, Coonoor Municipality, Coonoor.

V.BHARATHIDASAN.J.,

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