



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DELIVERED ON : 24.01.2018

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.16063 of 2017 and
W.M.P(MD)Nos.12741 to 12743 of 2017 and
W.P(MD)No.19284 of 2017 and
W.M.P(MD)Nos.15610 to 15612 of 2017

W.P(MD)No.16063 of 2017:

V.Mahalingam

... Petitioner

Vs.

1. The Principal District Judge,
Office of the Principal District Court,
Madurai District Court Campus,
Madurai.

2. The Chief Administrative Officer,
Principal District Court,
Madurai District.

3. Vijaya Rajan
4. P.Muruganantham
5. K.Palaniyappan
6. V.Subramaniyan
7. K.Vidya Sekar
8. D.Rajesh

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari calling for the records pertaining to the impugned order in Roc.No.Nil/2017, dated 12.07.2017 on the file of the first respondent in respect of Chamber No.90 situated in Law Chambers, Law Chambers Buildings, Madurai District Court, Madurai and quash the same as illegal.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.N.Tamil Mani for R.1 & R.2
Dispensed with - R.3 to R.8

W.P(MD)No.19284 of 2017:

1.M.Suradha
<https://hcservices.ecourts.gov.in/hcservices/>
2.M.Vasikaran

... Petitioners



Vs.

1. The Principal District Judge,
Office of the Principal District Court,
Madurai District Court Campus,
Madurai.

2. The Chief Administrative Officer,
Principal District Court,
Madurai District.

3. Vijaya Rajan
4. P.Muruganantham
5. K.Palaniyappan
6. V.Subramaniam
7. K.Vidya Sekar
8. D.Rajesh

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari calling for the records pertaining to the impugned order in Roc.No.Nil/2017, dated 12.07.2017 on the file of the first respondent in respect of Chamber No.90 situated in Law Chambers, Law Chambers Buildings, Madurai District Court, Madurai and quash the same as illegal.

For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.J.Gunaseelan Muthiah,
Government Advocate for R.1 & R.2
Dispensed with - R.3 to R.8

COMMON ORDER

Seeking a writ of Certiorari to quash the impugned order in Roc.No.Nil/2017, dated 12.07.2017 on the file of the first respondent in respect of Law Chamber No.90 situated in Law Chamber Buildings, District Court Campus, Madurai, the respective petitioners herein have filed both these writ petitions.

2. Mr.N.Tamil Mani, learned Counsel accepts notice on behalf of the respondents 1 and 2 in W.P(MD)No.16063 of 2017 and Mr.J.Gunaseelan Muthiah, learned Government Advocate accepts notice on behalf of the respondents 1 and 2 in W.P(MD)No.19284 of 2017. In view of the order which is going to be passed, notice to the other respondents is dispensed with.

3. By consent, the main writ petitions are taken up for final disposal.

4. Since the issue involved in both the writ petitions is one and the same, they are being taken up together for hearing and

disposed of by this common order.

5. Brief facts necessary for the disposal of both the writ petitions are as follows:

5.1. One Abdul Wahid, Advocate, was the main allottee of Law Chamber No.90 situated in Law Chamber Buildings, District Court Campus, Madurai. V.Mahalingam, the petitioner in W.P(MD)No.16063 of 2017 was the joint allottee. Muthu Dharmarajan, Singaraja, M.Surdha and M.Vasikaran were the co-allottees. It is alleged that all of them committed default in paying the rent and there are huge arrears of rent. Hence, the first respondent issued a Vacate Notice dated 17.03.2017 calling upon them to pay the arrears of rent within 30 days, failing which, steps be taken to cancel the allotment.

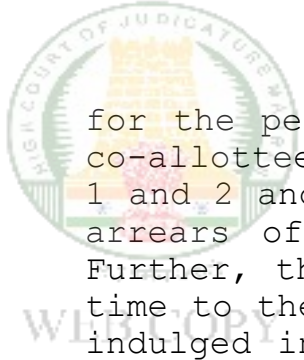
5.2. Since they did not pay the arrears within the time stipulated therein, an Eviction Notice dated 12.06.2017 came to be issued by the first respondent cancelling the allotment made in favour of the erstwhile allottees and further, declared that their occupation is an unauthorised one and consequently, directed them to hand over the key to the first respondent before 27.06.2017. Despite the same, they failed to pay the arrears of rent and thus, another notice dated 27.06.2017, was issued calling upon them to remove their belongings.

5.3. Challenging the same, W.P(MD)No.14022 of 2017 came to be filed and this Court, by order, dated 28.07.2017, disposed of the said writ petition, directing the second respondent therein to grant a month's time to the petitioner therein to pay the entire arrears within one month from the date of receipt of a copy of the order and also ordered to maintain status quo till such time.

5.4. Meanwhile, the third respondent along with the respondents 4 to 8 made a request to the first respondent seeking to allot the Law Chamber No.90 in their favour and the first respondent, by order 12.07.2017, allotted Law Chamber No.90 in favour of the respondents 3 to 8, however, subject to payment of Rs.1,04,008/- (Rupees One Lakh Four Thousand and Eight only) by them. Aggrieved by the said allotment, the present writ petitions have been filed by V.Mahalingam - Joint Allottee as well as by M.Suradha and M.Vasikaran - Co-Allottees of the Chamber in question.

6. Mr.T.Lajapathi Roy, learned Counsel for the petitioners in both the writ petitions, among other things, contended that the impugned orders have been passed by the respondents 1 and 2 without any application of mind to the provisions of Section 4 of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975 and further, that the impugned orders and other documents have not been served on the petitioners to agitate their claim. Further, the petitioners herein had already paid a sum of Rs.80,000/- (Rupees Eighty Thousand only) to the respondents 1 and 2 and now, they are ready and willing to pay the balance amount towards arrears of rent and thus, prayed for allowing these writ petitions.

7. Per contra, the respective learned Counsel appearing for the respondents 1 and 2 refuted the contentions of the learned Counsel



for the petitioners and contended that the main allottee and other co-allottees committed default in paying the rent to the respondents 1 and 2 and despite adequate time has been given to them to pay the arrears of rent, they failed to adhere to comply with the same. Further, they also contended that this Court also granted a month's time to the petitioners to remit the arrears of rent, however, they indulged in litigations rather than paying the arrears of rent and thus, it would explicit the attitude of the erstwhile allottees and thereafter only, the impugned orders came to be passed by the respondents 1 and 2 directing the petitioners to remove their belongings within seven days and hence, they prayed for the dismissal of these writ petitions.

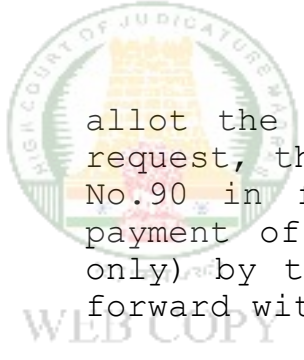
8. Heard the submissions of Mr.T.Lajapathi Roy, learned Counsel for the petitioners in both the writ petitions; Mr.N.Tamil Mani, learned Counsel for the respondents 1 and 2 in W.P(MD)No.16063 of 2017 and Mr.J.Gunaseelan Muthiah, learned Government Advocate appearing for the respondents 1 and 2 in W.P(MD)No.19284 of 2017 and perused the materials available on record.

9. It is seen that originally, Law Chamber No.90 situated in Law Chamber Buildings, District Court Campus, Madurai, was allotted to one Abdul Wahid, Advocate, being the Main Allottee, along with a Joint Allottee, namely, V.Mahalingam, petitioner in W.P(MD)No.16063 of 2017 and 4 other Co-Allottees, namely, M.Muthu Dharmarajan, M.Singa Raja, M.Suratha and M.Vasikaran. However, the said allottees of the Chamber in question committed default in paying the rent and accordingly, there are huge arrears of rent.

10. Therefore, the first respondent initiated action against them by issuing a Vacate Notice dated 17.03.2017 and thereby, calling upon them to pay the arrears of rent within 30 days, failing which, steps be taken to cancel the allotment. Despite the same, they did not pay the arrears within the time stipulated therein and hence, an Eviction Notice dated 12.06.2017 was issued by the first respondent and accordingly, cancelled the allotment made in their favour and also, declared their occupation as an unauthorised one and thus, directed them to hand over the key to the first respondent before 27.06.2017.

11. Even thereafter, it is seen that they did not prefer to remit the arrears of rent and hence, another notice dated 27.06.2017, was issued calling upon them to remove their belongings. Aggrieved by the same, W.P(MD)No.14022 of 2017 was filed and this Court, by order, dated 28.07.2017, disposed of the said writ petition, directing the second respondent therein to grant a month's time to the petitioner therein to pay the entire arrears within one month from the date of receipt of a copy of the order and also ordered to maintain status quo till such time.

12. In the meantime, the third respondent along with the respondents 4 to 8 made a request to the first respondent praying to



allot the Law Chamber No.90 in their favour and considering their request, the first respondent, by order 12.07.2017, allotted Chamber No.90 in favour of the respondents 3 to 8, however, subject to payment of Rs.1,04,008/- (Rupees One Lakh Four Thousand and Eight only) by them. Aggrieved thereby, the petitioners herein have come forward with these writ petitions.

13. It, *prima facie*, appears that the erstwhile allottees of Law Chamber No.90 situated in Law Chamber Buildings, District Court Campus, Madurai, committed default in remitting the rent as well as the arrears of rent to the respondents 1 and 2 despite sufficient opportunity being afforded to them and when the first respondent initiated action against them, they woke up and indulged in litigative battle.

14. As of now, the fact remains that the allotment made in respect of Law Chamber No.90 situated in Law Chamber Buildings, District Court Campus, Madurai, in favour of the petitioners herein, was cancelled by the first respondent, vide order dated 12.07.2017 made in Roc.No.9249 of 2017 and a new allotment order came to be passed allotting the said Chamber in favour of the respondents 3 to 8 herein and consequently, they have paid the arrears to the tune of Rs.1,04,010/- (Rupees One Lakh Four Thousand and Ten only), which, in turn, has been remitted to the Government Account.

15. At this juncture, this Court feels it appropriate to point out that though the earlier writ petition in W.P(MD)No.14022 of 2017 came to be disposed of on 28.07.2017, the first respondent - the Principal District Judge, Madurai District, filed the counter affidavit only on 17.08.2017, so to say, nearly after one month from the date of disposal of the said writ petition.

16. On a mere perusal of the counter affidavit filed by the first respondent in W.P(MD)No.14022 of 2017, dated 17.08.2017, it could be seen that the petitioners herein having aware of the cancellation of the allotment made in their favour in respect of the Law Chamber in question, they did not choose to whisper anything about the same in the affidavit filed in support of the writ petition in W.P(MD)No.14022 of 2017, wherein this Court granted a month's time to the petitioner therein to pay the entire arrears to the first respondent.

17. This Court, however, observes that the first respondent before cancelling the allotment made in favour of the petitioners, afforded sufficient time calling upon them to remit the arrears of rent and on failure thereof, eviction notices came to be issued, which, ultimately, ended in cancellation of allotment made in favour of the petitioners and thus, the claim of the petitioners is untenable in law.

18. When such being the case, this Court has no hesitation to hold that the petitioners herein are not entitled to the relief



sought for in these writ petitions and in the considered opinion of this Court, the cancellation of the earlier allotment made in favour of the petitioners herein as well as the new allotment made in favour of the respondents 3 to 8 herein, does not warrant any interference at the hands of this Court. Accordingly, both these writ petitions fail on this sole ground alone.

19. For the foregoing reasons, both the writ petitions are dismissed. No costs. Consequently, the connected writ miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To:

1. The Principal District Judge,
Office of the Principal District Court,
Madurai District Court Campus,
Madurai.

2. The Chief Administrative Officer,
Principal District Court,
Madurai District.

+ 2 CC TO Mr.T.LAJAPATHI ROY, ADVOCATE IN SR No. 44099, 44098
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 43999
+ 1 CC TO Mr.R.SUBRAMANIAN, ADVOCATE IN SR No. 44120

RSB

TE/GT/SAR-2 : 06/02/2018 : 6P/7C

COMMON ORDER MADE IN
W.P(MD)No.16063 of 2017
and W.M.P(MD)Nos.12741 to 12743 of 2017 and
W.P(MD)No.19284 of 2017
and W.M.P(MD)Nos.15610 to 15612 of 2017
24.01.2018