

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2019

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P..No.10248 of 2019
and
WMP Nos.10801 and 10803 of 2019

P. Kanaga ... Petitioner

.Vs.

1. The Estate Officer & Principal,
Chief Engineer, Integral Coach Factory,
Chennai - 600 038.
2. The General Manager, Marketing,
M/s.TCMPF Ltd.,
No.34, Pasumpon Muthuramalingam Salai,
Nandanam, Chennai - 600 035. Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records of the order of eviction passed by the 1st respondent in the proceedings in No.W/W/25 Memorandum dated 14.03.2019 office of the Principal Chief Engineer and quash the same.

For Petitioner : Mr.P.S.Jeyakumar

For Respondents : Mr.P.T.Ram Kumar for R1
Standing Counsel

O R D E R

This writ petition is filed challenging the order of the first respondent dated 14.03.2019, wherein and whereby, the first respondent intimated that 2nd respondent, who is in possession and occupation of a piece of land measuring 30' x 30' admeasuring 900 sq.ft in I.C.F. area near ICF Bus will be evicted from the above land with all the belongings on 01.04.2019, if they don't vacate voluntarily.

2. Mr.P.T.Ramkumar, learned Standing Counsel takes notice for the first respondent.

3. The case of the petitioner is as follows:

The first respondent allotted the subject matter premises to the 2nd respondent, from whom, the petitioner obtained license to run the Milk Parlor. Since the petitioner is in possession and enjoyment of the subject matter property, the first respondent is not justified in issuing the impugned proceedings without issuing any notice to the petitioner at any point of time. Therefore, the impugned action violates the principles of Natural Justice. The petitioner is continuously paying rent to the first respondent and therefore, she cannot be treated as an encroacher.

4. Mr. P.T.Ramkumar, learned Standing Counsel, who takes notice for the first respondent, based on instructions, submitted as follows:

The property was allotted to the second respondent and not to the petitioner at any point of time. The petitioner is not a tenant under the first respondent. When the second respondent failed to pay the enhanced rent, notice in Form-A Under Sub Section (1) and Clause (b) (ii) of Sub Section (2) of Section 4 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, was issued to the 2nd respondent on 25.10.2018, followed by passing a final order of eviction on 07.11.2018. The second respondent has not challenged the said order and allowed the same to become final. Even otherwise, as against the said order, only an appeal lies under Section 9 of the above said Act and therefore, the writ petition is not maintainable, even assuming that the petitioner is representing the 2nd respondent.

7. Heard both sides.

8. It is seen that the petitioner has obtained license to run the Milk Parlour from the second respondent in a premises owned by the first respondent, which was let out by the first respondent to the second respondent. Therefore, it is evident that there is no land lord-tenant relationship between the petitioner and the first respondent at any point of time. At the best, the petitioner can be treated as agent of the second respondent. It is seen that the proceedings are initiated against the second respondent under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, as stated supra, which ended in passing a final order on 07.11.2018. It is stated that the said order was not put to challenge by the second respondent and on the other hand, the same has become final and conclusive.

9. Under the above stated facts and circumstances, this Court is of the view that the present writ petition filed by the petitioner, who is only a licensee under the second respondent, is not entitled to challenge the consequential proceedings issued

on 14.03.2019, when the order of eviction passed on 07.11.2018 is not challenged so far. Even assuming that the 2nd respondent is contemplating to challenge the said order, it is for the second respondent to work out their remedy against the said order in the manner known to law by filing appropriate application before appropriate forum and not the petitioner, who is only a licensee under the second respondent, is entitled to question the same. Therefore, I find that the present writ petition is devoid of any merits, more particularly, when the petitioner is not having any locustandi to maintain the present writ petition. No doubt, the learned counsel for the petitioner contended that the impugned order was passed in violation of the principles of natural justice, as the petitioner was not put on notice. As I have already found that the petitioner principal namely the 2nd respondent was already put on notice and eviction order was also passed, thereafter, a separate or independent notice to the petitioner is not warranted.

12. Thus, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Vri

To.

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

2. The General Manager, Marketing,
M/s.TCMPF Ltd.,
No.34, Pasumpon Muthuramalingam Salai,
Nandanam, Chennai - 600 035.

+1cc to Mr.P.T.Ram Kumar, Advocate, S.R.No. 33760

W.P.No.10248 of 2019
and
W.M.P.No.10801 of 2019

EV(CO)
GN(08/05/2019)