

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 6.8.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.No.2616 of 2019
and
C.M.P.No.16815 of 2019

Sajeev Govindan Appellant/ Petitioner

Versus

1. The District Collector,
Ex-Officio President,
Assembly Rooms Trust
No.13, Garden Road,
Udagamandalam, Nilgiris District.
 2. The Estate Officer-cum-
The Revenue Divisional Officer,
Udagamandalam, Nilgiris District.
 3. The Assembly Rooms Trust,
Rep. by its Secretary,
Garden Road, Udagamandalam,
Nilgiris District.
- Respondents/ Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent against the order of this court dated 28.6.2019 in W.M.P.No.17217 of 2019 in W.P.No.17816 of 2019.

Prayer in W.M.P.No.17217 of 2019:

Calling for the records in respect of the notice dated 12.06.2019 made in RC.A2/968/2019- on the 2nd respondent herein and quash the same.

Prayer in W.P.No.17816 of 2019:

To grant an order of interim stay of the operation of the impugned notice dated 12.06.2019 made in RC.A2/968/2019- on the 2nd respondent herein and quash the same.

For appellant : Mr.S.K.Sriram for
M/s.A.S.Kailasam Associates

For Respondents : Mr.A.N.Thambidurai,
Special Government Pleader

JUDGMENT

(Judgment of the court was made by Dr.VINEET KOTHARI, J.)

The Appellant, Sajeev Govindan, son of Govindan, Proprietor of Royal Cafe, Udagamandalam, Nilgiris District has filed this Appeal aggrieved by the interlocutory order passed by the learned Single Judge on 28th June 2019 in W.P.No.17816 of 2019 filed by the present Appellant challenging the impugned eviction proceedings of the second respondent under the provisions of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975.

2. The learned counsel for the Appellant, Mr.S.K.Sriram submitted that the challenge was made in the Writ Petition with regard to the applicability of the said Act itself to the case of the Appellant/Petitioner as he submitted that the property belongs to the third respondent, The Assembly Rooms Trust and merely because the first Respondent, The District Collector is the Ex-Officio President of the said Assembly Rooms Trust, the said property cannot be treated as 'Public Premises' and provisions of the said Act cannot be invoked by the Respondents to seek eviction of the present Appellant/Petitioner.

3. The learned counsel for the Appellant/Petitioner further submitted that the learned Single Judge, while granting protection as prayed for by the Appellant/Petitioner against the impugned order, further observed as under by which the Appellant/Petitioner is aggrieved:-

"However, this shall not be construed as enabling the Petitioner to continue to carry on any business in the said premises."

He submitted that though an order granting protection against the eviction was passed in favour of Appellant by the learned Single Judge, but, due to the above impugned observation, it is impossible for the Appellant/Petitioner to carry on the business activity viz., a Restaurant, which is his source of livelihood and therefore, he has come up with the present Appeal.

4. The learned Special Government Pleader Mr.A.N.Thambidurai fairly submitted that the said part of the order passed by the learned Single Judge alone may be set aside, however, the other portion deserves to be maintained.

5. Having heard the learned counsel for the parties, we are of the opinion that the said aforequoted portion of the interim order passed by the learned Single Judge appears to have no object sought to be achieved and is a self contradiction and therefore, we are of the opinion that the business of the Appellant/Petitioner could not have been stopped with such an interlocutory order, without deciding the main challenge to the initiation of the proceedings under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975 itself. Accordingly, we set aside the following impugned portion line

from the impugned order dated 28.6.2019 passed by the learned Single Judge viz.,

"However, this shall not be construed as enabling the Petitioner to continue to carry on any business in the said premises."

6. The said line shall be treated as deleted from the order passed by the learned Single Judge on 28.6.2019 and the impugned order shall stand modified to that extent. The Appellant shall, however, carry on his business in the premises subject to compliance of the applicable regulations as stipulated in the notice impugned before the learned Single Judge. With these observations, the present Appeal is disposed of. No costs. The connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The District Collector,
Ex-Officio President,
Assembly Rooms Trust
No.13, Garden Road,
Udagamandalam, Nilgiris District.
2. The Estate Officer-cum-
The Revenue Divisional Officer,
Udagamandalam, Nilgiris District.
3. The Assembly Rooms Trust,
Rep. by its Secretary,
Garden Road, Udagamandalam,
Nilgiris District.

+1cc to Mr.A.s.Kailasam , Advocate SR.No.67013
+1 cc to Government Pleader Sr.No. 67548

W.A.No.2616 of 2019

A.SK(24/09/2019)