

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2019

CORAM :

THE HON'BLE THIRU. JUSTICE AMRESHWAR PRATAP SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.3843 of 2019

Sanjeev Govindan
S/o.Govindan
Proprietor - Royal Cafe
Garden Road
Udagamandalam - 643 001
Nilgiris District
rep. by Power of Attorney
Naresh Desingh, S/o.B.N.Desingh
No.A2, Elkhill Estate
Bandishola Post
Coonoor - 643 104
Nilgiris District. ... Appellant/Petitioner

Vs.

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: Appeal under Clause 15 of the Letters Patent against the order dated 16.10.2019 passed by the learned Single Judge in W.P.No.17816 of 2019.

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records in respect of the Notice dated 12.06.2019 made in Rc.A2/968/2019 on the file of the Second Respondent herein and quash the same.

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

For Respondents : Mr.V.Jayaprakash Narayanan
Government Pleader

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Heard learned counsel for the appellant.

2. The appeal is directed against the judgment of the learned Single Judge dated 16.10.2019, whereby the learned Single Judge has declined to entertain the writ petition with the observation that it shall be open to the second respondent to proceed to determine as to whether the premises is a public premises or not, apart from other contentions raised by the appellant.

3. We find from the order of the learned Single Judge that the appellant has been given ample protection from eviction during the pendency of the proceedings.

4. Learned counsel for the appellant, however, submits that the issue being one of jurisdiction, the learned Single Judge ought to have entertained the petition, more so keeping in view the stand taken in the counter affidavit where the respondents have cited illustrations of having evicted other tenants applying the provisions of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975 read with the Rules framed thereunder.

5. We have considered the submissions raised and we see no reason to differ from the view taken by the learned Single Judge

inasmuch as the issue of jurisdiction of the authority to proceed under the notice issued will have to be determined, as that will guide the further progress of the proceedings either way. Consequently, in the event the appellant raises this issue of jurisdiction before the authority, the authority will be under an obligation to dispose of the same before proceeding with the matter on merits. The time granted to the appellant by the learned Single Judge to file objections stands extended by two weeks from today. The interim protection shall continue as directed by the learned Single Judge.

The writ appeal is disposed of with the above observations. No costs. Consequently, C.M.P.No.24226 of 2019 is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sasi

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 Secretary,
Assembly Rooms Trust
Garden Road
Udagamandalam
Nilgiris District.

+2cc to M/s.A.S.Kailasam Associates, Advocate sr.94749

W.A.No.3843 of 2019

nr 14/11/2019