

O.A No.968 of 2018 in
C.S.No.726 of 2018

K.KALYANASUNDARAM., J

In a suit filed for permanent injunction, the plaintiff has come up with this application seeking an order of interim injunction.

2. The case of the applicant is that the suit schedule 'A' property vested with the applicant in pursuance of nationalization of the insurance industry in the year 1956. The suit property is being occupied by various tenants, apart from the office of the applicant is functioning in few floors. In the year 2017, the applicant evicted the tenants from the third floor of the schedule 'A' property and thereupon issued an advertisement calling for applications, who are interested in taking the premises. After completion of the selection process, allotments were made in the November 2017 and January 2018 and all the allottees have made payments as security deposits. The applicant assigned the room numbers as rooms 1 to 6 for the purpose of convenience and identification.

3. It is further stated that 'B' schedule property i.e., room No.5, having an extent of 462 sq.ft was allotted to one Ms.Jayasudha, Advocate,

vide allotment letter dated 10.09.2018 and she has paid the security deposit. While so, on 13.09.2018, a banner was affixed on the outer wall of the room No.5 and at the intervention of the officials, the same was removed. At that juncture, a letter from the former Parliament Member was received by the applicant on 20.09.2018, enclosing the letter of the first respondent addressed to the Member, dated 13.09.2018.

4. It is alleged by the applicant that on 24.10.2018 at about 4.15 p.m. the members of the first respondent tried to trespass into the 'B' schedule property by breaking open its lock. Then, immediately, a complaint was lodged with B-2, Esplanade Police Station by the Assistant Administrative Officer and the Police found that about 20 persons had entered into the 'B' schedule property. After persuasion by the Police, the members of the respondent-Union, came out of the premises and attended the enquiry in the Police Station, where the first respondent's members gave an ultimatum to the applicant to hand over the 'B' schedule property, by cancelling the allotment to the said Advocate. It is the case of the applicant that the respondents have no right, title or interest over the suit properties and no right to occupy the same.

5. A common counter affidavit has been filed, stating that the applicant is a statutory body and being a public body, all its properties are under the governance and maintenance of the Estate Officer. Section 15 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 bars filing of a civil suit and hence, the suit is not maintainable in law. It is further stated that despite the Official Memorandums issued in the year 1996, 1997, 2001, 2013 and 2014 for protecting the welfare and upliftment of OBC employees working under the Central Government, the applicant has not implemented the Official Memorandums in letter and spirit and on the other hand, the applicant is taking vindictive actions and preferred false complaint before the Police.

6. The counter further proceeds that the welfare association are functioning as per the directions of the State, not only for the welfare of the employees, but also for the growth of the applicant Corporation in a cordial manner. The employees are not the outsiders, but they also stakeholders and hence, they cannot be categorized as unauthorized occupants. It is the case of the respondents that they occupied 'B' schedule property on 17.07.2018 on the basis of informal instructions given by the office of the applicant. As such, they have been conducting their activities

in 'B' schedule properties, but all of a sudden, the applicant chose to large a complaint and contrary to the undertaking given before the Police that they will allot the space for the respondents, the present suit was filed within 2 days and an order of *status-quo* was obtained on 26.10.2018. Since the suit itself is not maintainable, this application has to be dismissed as not maintainable.

7. Mr.B.Mohan, learned counsel for the applicant would urge that there is no dispute that the suit properties belong to the applicant. A portion of the property is being leased out to the tenants and in the year 2017, the tenants from the third floor were evicted and thereafter new allotments were made. Though 'B' schedule property was allotted to one Ms.Jayasudha, Advocate vide letter dated 10.09.2018, she sought time to occupy the room on an auspicious day, while the other allottees occupied their portions. Since 'B' schedule property is situated in a corner of the third floor, the members of the respondents have attempted to occupy the same, by affixing some posters and they were also removed in the month of September 2018.

8. According to the learned counsel, the respondents have illegally trespassed into the 'B' schedule property on 24.10.2018 and after police complaint, they vacated the same within a period of one hour. In the injunction application, this Court appointed an Advocate Commissioner and the report of the Advocate Commissioner would establish that the respondents trespassed the 'B' schedule property only on 24.10.2018. It is further contended that even in the letter dated 13.09.2018, addressed to the former Member of Parliament, the respondents have stated that the LIC Administration have not heard the grievance of the respondents for allotment of space and hence, they taken over the 'B' schedule property for the use of the office of the respondent Association. Further, the LIC Administration have also locked the 'B' suit schedule property, thereby preventing the members of the respondents from entering into the same, but, in the counter, it is stated that based on the informal instructions given by the officials of the applicant, the member of the respondent-Union occupied 'B' schedule property in July 2018.

9. It is the submission of the learned counsel that these contradictions would prove that there was no allotment and the respondents illegally trespassed into the property in dispute. It is further

stated that even in the Circular of the Central Governance issued in the year 2013 states that subject to the availability space at Headquarters level, the welfare association may be provided with office space and hence, as a matter of right, the respondents cannot make any claim and the circular applies only to the Headquarters of the applicant, which is situated in Mumbai.

10. *Per contra*, Mr.P.Subbaramanian, learned counsel appearing on behalf of the respondents would contend that the members of the respondent-Union are not third parties or indulging in illegal activities and hence, they cannot termed as unauthorized occupants. It is the submission of the learned counsel for respondents that the members of the respondent-Union have been in possession of the 'B' schedule property, since July 2018, but a complaint was given on 24.10.2018 as if they trespassed into 'B' schedule property at 04.15 p.m., on 24.10.2018.

11. He further added that the Advocate Commissioner's Report shows that the respondents were in possession of the property. According to the learned counsel, the chairs, water cans and other materials could not be brought by the parties within one hour.

12. The learned counsel, by placing reliance on the decision of the Apex Court reported in ***East India Hotels vs. Syndicate Bank [1991 (2) SCALE 638]*** would argue that even for a person, who has been in possession of the premises for 14 days, shall be considered as "person in the settled possession". However, the applicant by using influence of Police, evicted the respondents illegally and hence, they are entitled for restoration of possession of 'B' schedule property.

13. Heard the rival submissions and perused the materials available on record.

14. In the instant case, it is not disputed that 'A' schedule property is vested with the applicant by virtue of enactment of Life Insurance Corporation of India Act, 1956. It is the specific case of the applicant that in the month of September 2018, the members of the respondent-Union affixed some posters outside the 'B' schedule property, but they were removed immediately. On 24.10.2018, the members of the respondent-Union trespassed into the 'B' property, however in a short span of time at the intervention of the Police, possession was handed over to the applicant on the same day.

15. A perusal of the report of the Advocate Commissioner would show that there was no tube lights, fan or other electrical fittings in the 'B' schedule property. Further, the Advocate Commissioner found that the two tube lights, plastic electrical tap, tester, wire stripper cutter, unopened. The report further shows that three new mop sticks, new room fresher, new room broomstick were also kept in 'B' schedule property. Even though it is contended by the respondents that by an informal instructions from the official of the applicant, they occupied the premises in the month of July 2018, the report of the Advocate Commissioner establishes that the statement is false. Had they been in possession of the property for about 3 months as alleged, there should be proper electricity connection, because without the basic amenities, no association can function especially in Chennai for a period of three months. According to the respondents, the other materials such as presence of the chairs and water canes would prove that they have been in possession of the property. But, this Court is unable to approve the argument of the learned counsel for the respondents.

16. It is not out of place to mention here that even in the representation, dated 13.09.2018, which is enclosed at page No.44 of the typed set of papers, nothing has been mentioned about the informal or

formal allotment order from the applicant and on the other hand, it is stated that the respondents themselves occupied the said portion. It is to be noted that an application moved to reject the plaint on the ground of bar of Civil Suit under Section 15 of the Public Premises (Eviction of Unauthorized Occupants) Act, was rejected by this Court on 18.12.2018.

17. In the light of the above facts, this Court is of the considered opinion that a *prima facie* case has been made out for the grant of interim injunction and the balance of convenience is also in favour of the applicant. In that view, this application is allowed. However, the possession of the applicant would be subject to the result of the suit. No costs.

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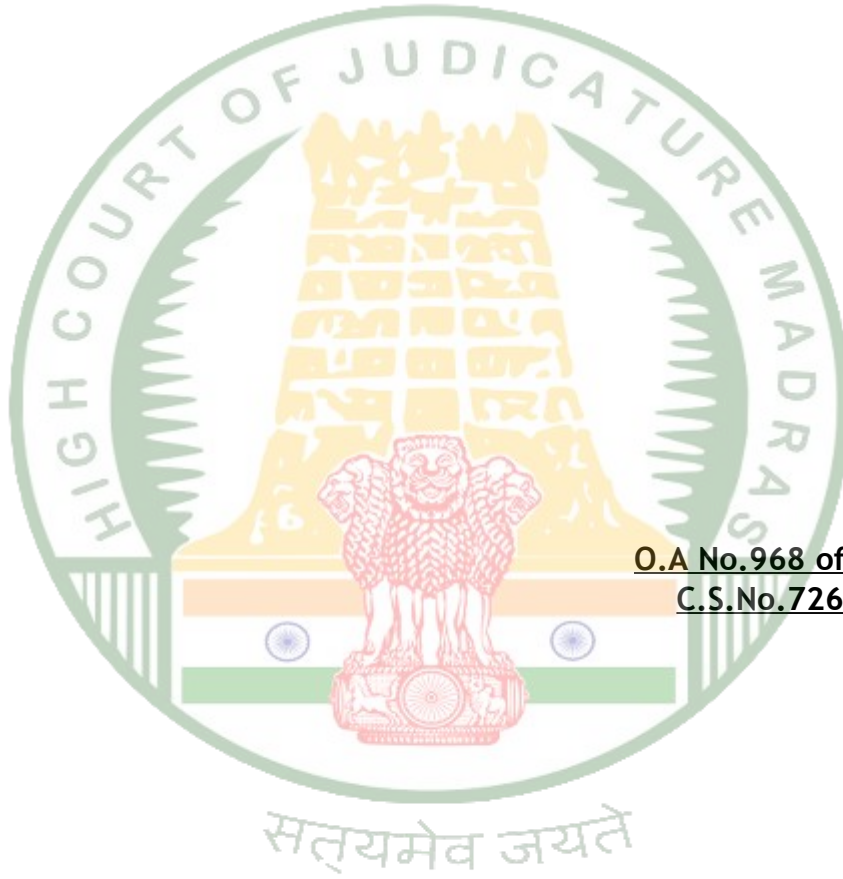
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