



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

WEB COPY

W.P. (MD) No.24494 of 2018**and****W.M.P. (MD) No.22200 of 2018**

The City Club,
Represented by its Secretary,
143, West Boulevard Road,
Trichy 620 002.

... Petitioner

Vs

The Estate Officer
Cum Corporation Commissioner,
Tiruchirappalli City Corporation,
Tiruchirappalli.

... Respondent

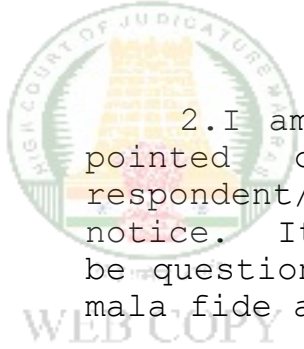
PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating the impugned proceedings issued by the respondent in his proceedings in Roc.No.A1(Sri)/5196/2008, dated 07.012.2018 and quash the same as illegal.

For Petitioner : Mr.M.Mahaboob Athiff
for M/s.Ajmal Associates

For Respondent : Mr.P.Srinivas
for Mr.S.Saji Bino

ORDER

The petitioner is a Society registered under the provisions of the Society Registration Act, 1860. They are in occupation of the premises belonging to the respondent Corporation. The respondent Corporation issued the impugned notice dated 07.12.2018 calling upon the petitioner to show cause as to why an eviction order should not be made against them. The learned counsel appearing for the writ petitioner questioned the impugned order primarily on the ground that when eviction proceedings were taken on an earlier occasion, they filed a writ petition before this Court and this Court granted an order of interim stay in M.P. (MD) No.2 of 2013 in W.P. (MD) No.20534 of 2013 on 18.12.2013. The said interim order is still in force. According to the petitioner's counsel the very issuance of impugned notice is an abuse of legal process. The petitioner's counsel would also firmly assert that they cannot be characterized as an unauthorized occupant.



2.I am not persuaded by the aforesaid submission. As rightly pointed out by the learned counsel appearing for the respondent/Corporation, what is under challenge is only a show cause notice. It has been consistently held that a show cause notice can be questioned only on limited ground such as lack of jurisdiction, mala fide and predetermination.

3.None of these grounds are available for the writ petitioner in this case. The petitioner can always submit his objection before the respondent and the respondent would definitely consider the same in accordance with law.

4.It is true that the respondent herein issued eviction proceedings against the writ petitioner earlier. But that was when the lease granted in favour of the writ petitioner was very much in force. That is why interim order was granted in favour of the writ petitioner on 18.12.2013 but then the petitioner's release got expired in the year 2014. The petitioner lease has not been extended. The respondent has not received rent from the writ petitioner thereafter. Therefore pendency of W.P.(MD)No.20534 of 2013 cannot be a bar for issuance of impugned notice. In any event, the proceedings dated 04.10.2013 issued by the Assistant Commissioner, Tiruchirappalli City Corporation, Srirangam and the present notice proceed on a different basis altogether. I am however granting liberty to the petitioner to submit his explanation to the impugned notice. The writ petition is dismissed. It is made clear that this Court has not pronounced anything on the merits of the matter and the rights of the writ petitioner are left open. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar()

To
The Estate Officer
Cum Corporation Commissioner,
Tiruchirappalli City Corporation,
Tiruchirappalli.

+1. C.C. To Mr.S.Saji Bino Advocate SR.No.57257
+1. C.C. To M/S.Ajmal Associates Advocate SR.No.57321

W.P. (MD)No.24494 of 2018

TK/SAR- /10.04.2019/2P/4C