

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.02.2020

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 2589 of 2020

and

W.M.P.No. 3005 of 2020

T.G.Ramamoorthy

.. Petitioner

..Vs..

1.The Estate Officer  
Southern Railway  
Madras Division  
Park Town  
Chennai - 600 003.

2. The Senior Section Engineer  
Permanent Way/Tambaram  
Southern Railway  
Chennai - 600 045

3. The Special Tahsildar (LA)  
Broad gauge Scheme  
Madurantakam  
Chengalpattu District.

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the 1st & 2nd respondents from dispossessing the petitioner from the land in S.No. 25A/1A2 situated at Urapakkam Village, Chengalpattu Taluk & District, measuring an extent of 0.09.00 Hec. (0.22 cents) vide the FMB Sketch annexed to the Survey report dated 17.11.2016 in Na.Ka.No.23/2016 of the 3rd respondent.

For Petitioner : Mr.R.Saravanakumar

For Respondents: Mr.P.T.Ram Kumar

O R D E R

This writ petition has been filed by the petitioner in the nature of mandamus to forbear the 1st respondent namely the Estate Officer, Southern Railway, Madras Division, Park Town, Chennai - 600 003 and the second respondent namely, the Senior Section Engineer, Permanent Way/Tambaram, Southern Railway, Chennai - 600 045 from dispossessing the petitioner from the

land in S.No.25A/1A2 situated at Urapakkam Village, Chengalpattu Taluk & District, measuring an extent of 0.09.00 Hec.

2. The petitioner claims that he is the owner of the said land. It is stated that by proceedings of the Special Tahsildar (Land Acquisition), dated 02.08.2004, in S.No.25A/1A1, land measuring an extent of 20 cents and in S.No. 25A/1B, land measuring an extent of 1 1/2 cents were acquired for the purpose of broad-gauge conversion and the compensation was also paid to the petitioner. Thereafter, on 31.05.2019, the impugned order has been passed under Section 5(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

3. The grievances of the petitioner is that this notice was issued to the son of the petitioner, namely, T.G.R.Babu and not to the petitioner. In the affidavit filed in support of the writ petition, the writ petitioner has claimed that he is residing at No.3, South Street (Ward 31), Tambaram West, Chennai - 600 045. The impugned notice was also served on the said address namely No.3, South Street (Ward 31), Tambaram West, Chennai - 600 045. The first respondent / Estate Officer, in the eviction notice dated 31.05.2019 has stated that TGR Babu and all other persons who may be in occupation of the Premises at km.37/18-22 (Chainage 37/500-600) at S.No. 177 left hand side of Down line near Urapakkam for an area of 6.46.9 sqm should vacate the premises within 15 days from the date of publication of the order.

4. The grievances of the petitioner is that the eviction order only pertains only to the S.No. 177, left hand side and the respondents are now encroaching into S.No. 25A/1A2 and disturbing the peaceful enjoyment and possession of the petitioner. This Court is of the opinion that the above mentioned issue cannot be decided here. Further, even if the order is to be challenged, the petitioner should have gone before the District Court and filed an appeal.

5. Mr.P.T.Ramkumar, takes notice on behalf of the respondents.

6. Reliance is placed on an order of Division Bench of this Court in W.P.No. 19466 of 2019, dated 31.07.2019, in the case of R.Veeramuthu Vs The Estate Officer, Office of the Principal Chief Engineer, Integral Coach Factory, Chennai - 600 019, wherein, the Division Bench has stated that in a notice issued under Section 5B(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, there is efficacious alternate remedy available for preferring an appeal under Section 9 of the said Act.

7. In view of the said circumstances, the writ petition is liable to be dismissed. However, a direction is issued to the respondents to take possession only of the schedule mentioned property which is once again extracted below for reference.

"Unauthorised occupation of Land in Railway Premises at km.37/18-22 (Chainage 37/500-600) at S.No. 177 left hand side of Down line near Urapakkam for an area of 6.46.9 sqm"

8. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Estate Officer  
Southern Railway  
Madras Division  
Park Town  
Chennai - 600 003.

2. The Senior Section Engineer  
Permanent Way/Tambaram  
Southern Railway  
Chennai - 600 045

3. The Special Tahsildar (LA)  
Broad gauge Scheme  
Madurantakam  
Chengalpattu District.

+lcc to Mr.P.T.Ram Kumar , Advocate SR.No. 8858  
+lcc to Mr.E.Veda Bagath singh , Advocate SR.No. 8689

W.P.No. 2589 of 2020  
and  
W.M.P.No. 3005 of 2020

A.SK(05/02/2020)