

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.No. 8984 of 2020
&W.M.P.No. 10922 of 2020

1.A.Shankar
2.A.Chellammal
3.A.Chitra
4.A.Gowthaman ... Petitioners

vs

1. The Executive Engineer,
Valparai Division P.W.D.,
Valparai - 642 127,
Coimbatore District.
2. The Assistant Engineer,
Camp Section, LND Sub Div PWD,
Valparai - 642 127,
Coimbatore District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for records of notice dated 08.06.2020 issued by the second respondent in Let.No.47.Vo.Po./Ko3/dated 08.06.2020 to demolish godown and to remove belongings from the premises situated at S.No.31/2/3, P.A.P.Colony, Valparai Taluk, Coimbatore District and handover possession to the respondent within 15 days from the receipt of the notice and quash the same.

For Petitioners.. Mr.Munuswamy Anandharaj
for Mr.M.Anandharaj

For Respondents.. Mr.R.Vijayakumar
Additional Government Pleader

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioners have come forward to file this writ petition challenging the impugned notice by which the petitioners were directed to handover the vacant possession.

2.From the impugned notice, it is seen that the permission was given in favour of one C.Arumugam (since deceased) in the year 1988. This was done for the purpose of running the Gas Agency. After his death, the petitioners and the family members were in possession of the said property. It appears that the dealership was suspended on 21.01.2006 and the said position continues till date. Thereafter, in the year 2016-17, the respondents informed the petitioners over the non-payment of rent followed by the consequential cancellation of the permission granted. By the impugned notice, the petitioners have been informed to hand over the possession, failing which action would be taken in accordance with law. Challenging the same, the present writ petition has been filed.

3.Learned counsel appearing for the petitioners submitted that it is not correct to state that the permission has not been renewed subsequently. In fact, rents have been received subsequently. The petitioners are still in need of the property. The amount demanded is also not legally sustainable. The interim order passed by this Court has been complied with and, thus, the writ petition will have to be allowed.

4. Placing reliance upon the counter affidavit, the learned Additional Government Pleader submitted that the petitioners were given a mere permission to put up a temporary shop. After the death of the original lessee, notice was issued to the petitioners indicating the cancellation. The impugned notice is only a consequential notice calling upon the petitioners to hand over the possession. Therefore, the writ petition will have to be dismissed.

5. It appears from the perusal of the impugned notice that due intimation has been given on the earlier occasion, way back in the year 2016-2017, intimating the cancellation passed. What has been challenged before us is a consequential notice directing the petitioners to handover the possession. Thus, we do not find any merit to interfere with the impugned notice. However, the petitioners can only be dispossessed by following the due procedure. In fact,

notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 has already been given.

6. In such view of the matter, the petitioners are given a further period of four weeks to give reply to the show cause notice issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905. After considering the same only, further action can be taken by issuing Section 6 eviction notice, if so required. Till such time, status quo as on today shall be maintained.

7. The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Executive Engineer,
Valparai Division P.W.D.,
Valparai - 642 127, Coimbatore District.
2. The Assistant Engineer,
Camp Section, LND Sub Div PWD,
Valparai - 642 127,
Coimbatore District.

+1cc to Government Pleader, Advocate, S.R.No.29506

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W.P.No. 8984 of 2020

KK(CO)
RV(21/09/2020)

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