

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.No.5988/2021 & WMP.Nos.6640 & 6641/2021

R.Venugopal

...Petitioner

Versus

Estate Officer
DRM Office, Chennai Division,
Southern Railway
Chennai 600003.

...Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records pertaining to the Notice No.M/W 234/Eviction/RM/PER dated 18.02.2021 of the respondent and quash the same.

For Petitioner : Mr.D.S.Ramesh
For Respondent : Mr.P.T.Ramkumar
Standing counsel

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

- (1)By consent, the writ petition is taken up for final disposal and is disposed of by this order.
- (2)Mr.P.T.Ramkumar, learned Standing counsel accepts notice on behalf of the respondent.
- (3)The petitioner claims to be a resident of Door No.52, Thikkakulam Street, Thukklamman Colony, Ayanavaram, Chennai 600 023, and according to him, the property was, originally belonged to his grandfather, viz., Durairaj, and by way of succession, he continues to be in possession and enjoyment of the said property. The petitioner would state that in recognizing the said right, Arulmighu Semathamman and Aanandeeswarar Temple, which comes under the control of the

Hindu Religious and Charitable Endowments Department, Tamil Nadu, has also issued Miscellaneous Receipts dated 06.03.2013 and 14.03.2013 by collecting part of the fair rent.

- (4) The primordial submission made by the learned counsel for the petitioner is that in the light of the collection of the said rent by the temple, the respondent has no right whatsoever, to invoke the provisions of the Public Premises [Eviction of Unauthorised Occupants] Act, 1971.
- (5) It is also brought to the knowledge of this Court that challenging the Notice dated 18.02.2021 issued u/s.5[1] of the said Act, the petitioner herein, has also filed an appeal in CMA.No.13/2021 on the file of the Court of Principal City Civil Court at Chennai, and the same is pending without any interim orders
- (6) The learned counsel for the petitioner has also expressed the apprehension that if the respondent is allowed to proceed under the provisions of the said Act, the statutory appeal preferred in CMA.No.13/2021 pending on the file of the Court of Principal City Civil Court at Chennai, may become infructuous and therefore, prays for interim orders forbearing the respondent from proceeding further in terms of the notice dated 18.02.2021.
- (7) Per contra, Mr.P.T.Ramkumar, learned Standing counsel appearing for the respondent would submit that admittedly, the petitioner has made a challenge to the impugned notice dated 18.02.2021 issued by the respondent u/s.5[1] of the Public Premises [Eviction of Unauthorised Occupants] Act, 1971, by filing an appeal in CMA.No.13/2021 which is pending on the file of the Court of Principal City Civil Court at Chennai and the remedy open to him, if any, is to press for interim orders and even for the sake of arguments, no interim orders have been granted, there are other remedies available to him and as such, the present writ petition is per se not maintainable and hence, prays for dismissal of this writ petition with exemplary cost.
- (8) This Court has considered the rival submissions and also perused the materials placed before it.
- (9) As rightly pointed out by the learned Standing counsel appearing for the respondent, the petitioner made a challenge to the above cited impugned notice dated 18.02.2021 by filing an appeal in CMA.No.13/2021 and it is pending on the file of the Court of Principal City Civil Court at Chennai, and the petitioner apprehends that if further action, in terms of the impugned Notice are likely to be taken/would be taken, it is always open to him to press for the interim orders. It is also

not clear from the materials placed as to whether the petitioner herein had done so.

(10)The petitioner has already invoked the appellate remedy and he cannot indirectly make a challenge to the very same notice by filing this writ petition. This Court, after carefully scanning and analysing the materials and considering the rival submissions, is of the considered view that there is no merit in this writ petition.

(11)However, if the petitioner is so advised and if it is available to him under law, he is always at liberty to work out his further remedy in the pending CMA.No.13/2021 on the file of the Court of Principal City Civil Court at Chennai.

(12)The writ petition stands dismissed with the above observations. No costs. Consequently, the connected miscellaneous petitions are closed

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

AP

To

The Estate Officer
DRM Office, Chennai Division,
Southern Railway
Chennai 600003.

Copy to
The Judge,
Principal City Civil Court,
Chennai.

+1cc to Mr.D.S.Ramesh, Advocate, S.R.No.15391
+1cc to Mr.P.T.Ramkumar, Advocate, S.R.No.15386

WP.No.5988/2021

NMI (CO)
KKV/07/04/2021