



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P. NOS.23078, 23081, 23083, 23085, 23086, 23087, 23088, 23090,
23092, 23093, 23095, 23096, 23097, 23098, 23100 OF 2021

AND

CONNECTED MISCELLANEOUS PETITIONS

K.Mariappan

... PETITIONER in WP No.23078 of 2021

A.THULASIRAMAN

... PETITIONER in WP No.23081 of 2021

K.THANGAVEL

... PETITIONER in WP No.23083 of 2021

D.SRINIVASAN

... PETITIONER in WP No.23085 of 2021

M.SARAVANAKUMAR

... PETITIONER in WP No.23086 of 2021

P.CHINNARAJ

... PETITIONER in WP No.23087 of 2021

V.PALANISAMY

... PETITIONER in WP No.23088 of 2021

K.THANGAVEL

... PETITIONER in WP No.23090 of 2021

L.SRINIVASAN

... PETITIONER in WP No.23092 of 2021



E. RAMESHKUMAR

A. SIVALINGAM

A. EASWARAN

A. MATHESHWARAN

MARIYAMMAL

I. SUBRAMANI

... PETITIONER in WP No.23093 of 2021

... PETITIONER in WP No.23095 of 2021

... PETITIONER in WP No.23096 of 2021

... PETITIONER in WP No.23097 of 2021

... PETITIONER in WP No.23098 of 2021

... PETITIONER in WP No.23100 of 2021

Versus

The Estate Officer (ADRM/SA),
Southern Railway,
Divisional Office,
Work Branch,
Salem,
Salem District.

.. Respondent in all WPs.

Common Prayer:-

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari, calling for the records relating to order passed by the respondent dated 07.12.2020 in proceeding No.SA/W.274/encroachment and eviction order dated 15.09.2021 in proceeding No.SA/W.274/encroachment passed by the respondent, and quash the same respectively.

For petitioner : Mr.M.Elango
(in all W.Ps.)

For respondent : Mr.P.T.Ramkumar
(in all W.Ps.)



COMMON ORDER

(The Order of the Court was made by K.KALYANASUNDARAM, J)

WEB COPY These Writ Petitions are heard through video conferencing.

2. These Writ Petitions have been filed challenging the order passed by the respondent dated 15.09.2021 under Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971 [hereinafter called as Public Premises Act].

3. According to the petitioners, they are residing at Danishpet Village by constructing houses in small extent. The area is far away from the railway track, which runs between Salem and Chennai. It is their further case that their occupation does not cause any inconvenience to the Railway Department.

4. It is seen that the respondent issued a show cause notice under Section 4 (2)-IIb and sub-section (1) of Public Premises Act calling for the petitioners to appear for inquiry along with relevant documents in support of their case. The grievance expressed by the petitioners is that though the respondent conducted enquiry on 29.12.2020, however due to Covid-19 pandemic situation, they were not given ample opportunity to put forth their case. It is specifically stated in the affidavit that the respondent did not call each individual nor allowed them to enter into the office of the respondent, however, passed the impugned order directing them to vacate the premises.

5. The learned counsel appearing for the petitioners Mr.M.Elango, while reiterating the averments contained in the affidavit would state that the respondents have been in occupation of their respective premises for more than 5 decades. While so, they cannot be evicted without following due process of law. He would further state that if the petitioners are given a chance, they are ready and willing to attend the personal hearing on 15.11.2021.

6. The learned Standing Counsel appearing for the respondent Mr.P.T.Ramkumar would state that the respondent scrupulously followed the procedures contemplated under the Public Premises Act and passed the impugned order, wherein it is



specifically mentioned that on 29.12.2020, the petitioners attended the personal hearing. It is also stated that the petitioners are having a statutory remedy of filing appeal before the District Court, but without exhausting the alternative remedy, these Writ Petitions have been filed.

7. We have carefully considered the rival submissions and perused the materials available on record.

8. Perusal of the records reveal that the petitioners have been in occupation of their premises for a considerable period. The respondent initiated proceedings under the Public Premises Act and after issuing show cause notice dated 07.12.2020, the respondent conducted enquiry on 29.12.2020. The main grievance of the petitioners is that in view of the Covid-19 pandemic situation, the respondent did not allow them to enter into the office, hence the personal hearing conducted by the respondent is a farce. Though it is contended by the learned Standing Counsel appearing for the respondent that the petitioners have been offered sufficient opportunity and they also attended the enquiry, however, considering the grievance expressed by the petitioners and also taking into account the facts of the case, we are of the opinion that they were not given adequate opportunity to put forth their case.

9. In such view of the matter, the order impugned in these Writ Petitions are set aside and the matter is remanded back to the respondent for fresh consideration. The petitioners are hereby directed to appear for personal hearing on 15.11.2021 and the respondents after hearing the case of the petitioners shall pass orders afresh in accordance with law.

10. With the above observations and directions, these Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

pvs



To

The Estate Officer (ADRM/SA),
Southern Railway,
Divisional Office,
Work Branch,
Salem, Salem District.

+1cc to M/s.P.T.Ramkumar, Advocate, S.R.No.55536

+5ccs to Mr.M.Elango, Advocate, S.R.No.55240 (17/11/2021)

W.P. No.23078 of 2021 etc. batch of cases

RR(CO)
RLP(09/11/2021)