



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :31.03.2021

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P(MD)No.7295 of 2021

and

WMP(MD)Nos.5556 and 5557 of 2021

V.Sankar

... Petitioner

Vs

1. The Estate Officer,
SBI, LHO,
Chennai.
2. The Branch Manager,
State Bank of India,
Arasaradi Branch,
Madurai.
3. K.Thakshinamoorthy

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records of the 1st respondent in Eviction Petition No.4/2021, initiated by the 2nd respondent under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 in respect of the property comprised in Plot No.14, 1st Floor (Guruvasam), Jawahar 2nd Street, S.S.Colony, Madurai wherein the petitioner's lawful possession as a statutory tenant, quash/ strike of the same as the same is in excess of jurisdiction, arbitrary and ultravires.

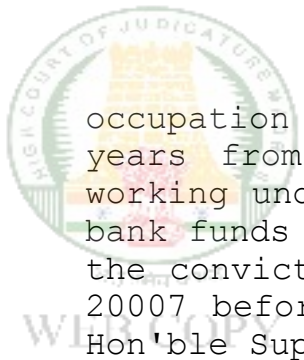
For Petitioner : Mr.R.G.Shankar Ganesh

For Respondents : Mr.M.Karunanithi

ORDER

The petitioner claims to be a resident of the address given in the cause title to the affidavit filed in support of the writ petition.

2.The house, which is under the occupation of the petitioner presently belonged to the 3rd respondent, who was working as a Manager in the respondent bank. The property was allowed to be in



occupation by the petitioner on consideration for a period of three years from 11.03.2016 to 11.03.2019. The 3rd respondent was while working under the 2nd respondent appeared to have misappropriated the bank funds and he was convicted by an order dated 28.09.2007. Against the conviction he filed an appeal in CrI.A(MD)Nos.512 of and 544 of 2007 before this Court and the appeals were also dismissed and the Hon'ble Supreme Court also appears to have confirmed the conviction.

3.In view of conviction on the petitioner passed by the CBI Court by an order 28.09.2007, they chose to confiscate the property in favour of the government. However, the 2nd respondent has filed an appeal before this Court in CrI.A.No.254 of 2019 and this Court allowed the appeal by order dated 09.07.2009 holding that the property will have to necessarily come to the bank and found that the confiscating the property in favour of the government was wrong.

4.Thereafter, the 2nd respondent issued notice on 28.08.2019 demanding the petitioner to vacate the premises as the subject property belonged to the bank. Thereafter the 2nd respondent initiated eviction proceedings before the 1st respondent under the provision of the Public Premises (Eviction of Un-authorized Occupants) Act, 1971 and aggrieved by the petitioner is before this Court.

5.The learned Counsel submitted that the property had been taken into possession by the bank only recently and therefore, the question of evicting the petitioner, who had already been in occupation from the earlier point of time is without jurisdiction. When this Court specifically confronted the learned Counsel as to the alternative remedy available under the Public Premises (Eviction of Un-authorized Occupants) Act, 1971, the learned Counsel kept harping that the writ petition is maintainable. This Court when repeatedly reminded the learned Counsel that this writ petition is not maintainable for the simple reason that there is an appeal remedy available under the provisions of the Public Premises (Eviction of Un-authorized Occupants) Act, 1971 the learned Counsel needlessly insisted and contended that the writ petition was indeed maintainable.

6.The learned Counsel without heeding to the objection raised by this Court attempted to draw the attention of this Court on the merits of the petitioner's contention. However this Court is not inclined to entertain to the writ petition for the reason that whatever be the objections the petitioner may have against the impugned proceedings, it is always open to him go before the 1st respondent and submit his objections. In case if any adverse order is passed against the petitioner it is always open to him to invoke the writ jurisdiction at that point of time. Unfortunately, the learned Counsel did not accept the same and continued his arguments and wasted the precious time of this Court.



7. In view of the above, the writ petition is dismissed with costs of Rs.5,000/- [Rupees Five Thousand Only] and the writ petitioner is directed to pay the cost within a period of two weeks from the date of receipt of a copy of this order to the Hon'ble Chief Minister's relief fund for treating COVID-19 patients and in case the petitioner does not pay the cost within two weeks, the District Collector concerned is directed to initiate proceedings under the Revenue Recovery Act, for recovering the amount and to pay the COVID-19 relief as directed above.

8. Registry is directed to mark a copy of the order to the District Collector concerned, so as to enable him to take action against the petitioner in case the petitioner does not pay within a period stipulated. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1. The Estate Officer,
SBI, LHO,
Chennai.
2. The Branch Manager,
State Bank of India,
Arasaradi Branch,
Madurai.

Copy To:-

The District Collector,
Madurai.

+1 CC to Mr.R.G.SHANKAR GANESH, Advocate (SR-15260[F] dated 01/04/2021)

+1 CC to Mr.M.KARUNANITHI, Advocate (SR-15201[F] dated 01/04/2021)

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DSK