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W.P.No.14233 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.Nos.14233,14234,
14235,14236,
14237,14238
and 14239 of 2012
&
M.P.Nos.1,1,1,1,1,1 and 1 of 2012

W.P.No.14233 of 2012

K.Praveen Kumar

.. Petitioner in W.P.No.14233 of 2012

Vs.

1. The District Collector
Chennai District
Chennai

2.The Thasildar
Fort Thandayarpet Taluk
Chennai-600 003

... Respondents in W.P.No.14233 of 2012

PRAYER in W.P.No.14233 of 2012: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the 2nd respondent in relation to the impugned notice in A5/16324/2012 dated 29.05.2012 and quash the same as illegal and without jurisdiction.



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For Petitioner in : Mrs.Chitra Sampath, Senior Counsel
for
Mr.T.S.Baskaran

For Respondents : Mr.P.Sathish, AGP for R1 and 2

COMMON ORDER

Writ Petitions are filed challenging the impugned notice in A5/16324/2012 dated 29.05.2012 issued by the 2nd respondent and to quash the same.

2. It is the case of the Writ Petitioners that their fore father had been inducted as a tenant in building at New No.43, Old no.24, Perumal Mudali Street, Chennai-01 35 years ago. Thereafter, the petitioners also continuing in the building as tenant which belongs to one Jamal Mohamed who is collecting rent for premises through his agent namely “Smart Line” and the rents have been regularly paid. While the matter stood thus, the 2nd respondent issued a notice 29.05.2012, directing the Writ petitioners to vacate the premises on or before 31.05.2012. It is also stated that the petitioners will be evicted with the



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help of Police. The 2nd respondent has referred to a letter of the 1st respondent dated 23.05.2012 vide 01/16552/12 in the impugned notice sought for eviction of the premises. However, the notice did not contain the details of the letter issued by the 1st respondent. No such copy has been served to the petitioners. The impugned notice merely mentioned that the owner has violated the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act. According to the petitioners they are bonafide tenant in the above premises for a very long time and they cannot be evicted.

3. Learned Additional Government Pleader would submit that the impugned notice has been issued straightaway asking the petitioners to vacate the premises and they will give an opportunity for the petitioners and after that they will take a decision. The impugned notice dated 29.05.2012 issued by the 2nd respondent directing the petitioners to vacate the premises otherwise they will be evicted with the help of the Police.

4. Heard Mrs.Chitra Samptah, learned Senior counsel for the petitioners and the learned Additional Government Pleader for the respondents.



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5. Learned Senior counsel for the petitioners would submit that the petitioners are bonafide tenants and carrying on their business for many years. Without issuing any notice and opportunity of hearing, the petitioners cannot be evicted. It is the contention of the learned Senior counsel that the petitioners are in no way connected with the alleged offence under COFEPOSA Act. Even assuming that the property to be attached by the authorities, the Writ petitioners being bonafide tenant they cannot be thrown out just like that because as their rights have been protected by the Statute. Hence, seeks to quash the entire proceedings.

6. Learned Additional Government appearing for the respondents would submit that they will hear the other side and after giving opportunity they will take a decision. On a perusal of the impugned order, it is seen that the 2nd respondent has directed the petitioners to vacate the premises. The impugned notice itself indicated that since in order to enable the authorities under COFEPOSA Act to attach the property the tenants would be evicted. Except that no other details were given. It is not the case of the respondents that petitioners also involved in any such offence. Therefore, merely because



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owner of the building allegedly involved in the offence under COFEPOSA the

tenants whose rights have been crystallized and as a matter of right they cannot be thrown out just like that by impugned notice. The rights has to be governed as per the Statute protecting the rights of the tenants. Even if the property is attached the tenancy can be continued. As long as tenants rights have been crystallized and recognized they should be evicted only by due process of law not by way of issuing impugned notice that too with the help of Police.

7. In such view of the matter, this Court is of the view that the impugned notice suffers from not only the principle of violation of natural justice also statutory procedure. Accordingly, the same is set aside. It is well open to the respondents to give proper opportunity to the petitioners and hear their case and decide as per the law and if the tenants are protected by beneficial legislation under pretext of attachment they cannot be just like thrown out contrary to the Rent Control legislation. The impugned notice is set aside.

With the above observation, these Writ Petitions are allowed. No costs.



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Consequently, connected miscellaneous petitions are closed.

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Internet: Yes

Speaking/Non speaking order

To

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Chennai District
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N. SATHISH KUMAR, J.

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