



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.Nos.4050, 4053, 4055, 4057 & 4060 of 2022
and W.M.P.Nos.4193, 4195, 4197, 4198 & 4199 of 2022

K.Thangavel	... Petitioner in W.P.No.4050/2022
Mariyammal	... Petitioner in W.P.No.4053/2022
Thulasiraman	... Petitioner in W.P.No.4055/2022
Ramesh Kumar	... Petitioner in W.P.No.4057/2022
Palanisamy	... Petitioner in W.P.No.4060/2022

Vs.

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

... Respondent in all WPs

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the proceeding of respondent in SA/W.274/Encroachment dated 08.02.2022 and quash the same.

For Petitioners: Mr.M.Elango
(in all Wps)

For Respondent : Mr.V.Chandrasekaran,
(in all WPs) Standing Counsel

COMMON ORDER

These Writ Petitions have been filed challenging the order dated 08.02.2022 passed under Section 5 of the Public Premises (Eviction of unauthorised occupation) Act 1971, against the respective petitioners. The petitioners have challenged the impugned order on the following grounds:-

(a) The respondent has no jurisdiction to pass the impugned order by relying upon a notice issued by them under Section 5(1) of the Act, which was quashed by this Court by its order dated 27.10.2021 in W.P.No.23090 of 2021.



(b) The respondent had passed the impugned order in violation of the order passed by the Division Bench of this Court in W.P.No.23090 of 2021 dated 27.10.2021.

WEB COPY

2. The petitioners claim that they are in possession of the respective properties for a long number of years. According to them, the respondent has arbitrarily and illegally passed the eviction order.

3. A counter-affidavit has been filed by the respondent in all these Writ Petitions. In the counter-affidavit, they have categorically stated that the petitioners are encroachers and the subject lands are required for public purpose. According to them, the respective petitioners never claimed title over the properties but all of a sudden, they took a different stand later claiming title. According to them, personal hearing was also afforded to the respective petitioners pursuant to the directions given by the Division Bench of this Court on 27.10.2021 and the subject order was complied with by them in letter and spirit.

4. Heard Mr.M.Elango, learned counsel appearing for the petitioners and Mr.V.Chandrasekaran, learned standing counsel for the respondent.

5. The learned counsel appearing for the petitioners drew the attention of this Court to the impugned order which submits that based on an order dated 15.09.2021 which has already been quashed by the Division Bench of this Court on 27.10.2021, the present impugned order has been passed and therefore, it is illegal.

6. However, the learned standing counsel for the respondent would submit that sufficient opportunity of hearing was granted to the respective petitioners including, granting them the right of personal hearing and only thereafter, the impugned order came to be passed. He would further submit that the respective petitioners never claimed title over their respective properties but all of a sudden, they shifted their stand claiming title. No documentary evidence was also produced before the respondent to claim their ownership. The learned standing counsel for the respondent also drew the attention of this Court to the letter dated 15.11.2021 of the petitioners and submitted that the respective petitioners sought for an alternate accommodation and never claimed title. He would further submit that the subject properties are immediately required to the respondent for public purpose.



7. The Division Bench of this Court in its order dated 27.10.2021 in WP.No.23090 of 2021 etc., batch, which was filed by the respective petitioners had remanded the matter back to the respondent for fresh consideration after affording a fair hearing to the respective petitioners including granting them the right of personal hearing. Admittedly, the respective petitioners were afforded a personal hearing on 15.11.2021, the date fixed by the Division Bench of this Court. The respondent has also produced original files which disclose that personal hearing was granted to the respective petitioners on 15.11.2021.

8. In these Writ Petitions, the only grievance raised by the petitioners is that principles of natural justice has been violated by the respondent. Even though, the learned counsel for the petitioners would argue that the petitioners claimed title over the property, the same has not been raised in the grounds of these Writ Petitions. No documentary evidence has also been produced by the respective petitioners to prove that they are the owners of the respective properties. Even in the affidavit filed in support of these Writ Petitions or in the affidavits filed in the earlier round of litigation, the very same parties (the petitioners) have not produced any documents to prove their respective title over their properties.

9. In fact, in WP.No.26640 of 2021, one of the petitioners (K.Thangavel) only, sought for an alternate accommodation. While that be so, it is clear that the respective petitioners do not have any title over the said properties and they can only be treated as encroachers. The respondent has given sufficient opportunity of hearing to the petitioners as directed by the Division Bench of this Court in its order dated 27.10.2021 in WP.No.23090 of 2021 etc., batch, including, granting them the right of personal hearing. The petitioners have also in the personal hearing on 15.11.2021 submitted a representation to the respondent requesting them to provide alternate accommodation and till alternate accommodation is provided, their possession should not be disturbed.

10. This being the case, they cannot take an altogether different stand now by claiming title over their respective properties. As directed by the Division Bench of this Court, personal hearing was afforded to the petitioners on 15.11.2021 and it is evidenced by the minutes of meeting recorded at the time of hearing, signed by all the respective petitioners which has been produced before this Court by way of typed set of papers filed by the learned standing counsel for the respondent.

11. Since the order of the Division Bench of this Court dated 27.10.2021 passed in WP.No.23090 of 2021 etc., batch has



been complied with by the respondent in letter and spirit, these Writ Petitions are not maintainable.

12. For the foregoing reasons, there is no merit in these Writ Petitions. Accordingly, these Writ Petitions are dismissed. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

Sni

To

The Estate Officer,
Southern Railway,
Divisional Officer,
Work Branch, Salem,
Salem District.

+1cc to Mr.V.Chandrasekaran, Advocate SR.No.32375

+5ccs to Mr.M.Elango, Advocate SR.No.32432, 32434, 32435, 32436,
32433

W.P.Nos.4050, 4053, 4055, 4057 & 4060 of 2022

PA (CO)
GMY (08/06/2022)