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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA  
AND  
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.16636 of 2022

Muthoot Fincorp Limited  
represented by its Authorized Signatory  
Mrs.Jessy Joseph, having its registered office  
at Muthoot Centre, TC No.27/3022  
Punnen Road, Thiruvananthapuram 695 001  
Kerala, India  
and its branch office at  
Door No.301, Abad Plaza, Commercial Road  
Ooty 643 001, The Nilgiris, Tamil Nadu ..Petitioner

-vs-

1. The Commissioner  
Udhagamandalam Municipality  
Udhagamandalam  
The Nilgiris
2. Omar Farook Sait
3. Faiyz Ahmed Sait ..Respondents

Petition under Article 226 of The Constitution of India,  
praying for issuance of a Writ of Certiorarified Mandamus,  
quashing the impugned Notice dated 30.05.2022, bearing  
No.50/1999/N issued by the Respondent No.1 to Respondent Nos.2  
and 3 and consequently direct the Respondent No.1 to provide a  
time period of 6 months to the petitioner to vacate the rented  
premises.

|                 |    |                                                               |
|-----------------|----|---------------------------------------------------------------|
| For Petitioner  | :: | Mr.M.S.Krishnan<br>Senior Counsel for<br>Ms.Ramya Subramanian |
| For Respondents | :: | Mr.P.Srinivas for R1                                          |



(Order of the Court was made by T.RAJA, J.)

2. Mr.M.S.Krishnan, learned Senior Counsel appearing for the petitioner submitted that the petitioner is a Non Banking Financial Company providing extensive array of financial products and services like gold loans, small business loans, two wheeler finance, domestic money transfer, international remittance, foreign exchange, insurance products & services and Wealth Management services for more than 20 years. The petitioner is also having branches all over the country. One of the branches is situated at the Ground Floor having Door No.301, Abad Plaza, Commercial Road, Ooty in a rented building hired out from the Respondent Nos.2 & 3, for the last 19 years. When the petitioner is an occupier of the rental premises and has also entered into a lease agreement with the Respondent Nos.2 & 3 from 01.07.2003 for a period of 10 years, upto 30.06.2013, which was subsequently renewed for a further period of ten years from 01.07.2013 to 30.06.2023 through the lease agreement dated 10.06.2013, the building occupied by the petitioner has been directed to be demolished, for the reason that no planning permission was obtained by the landowners/Respondent Nos.2 & 3. When the petitioner is a lawful occupier, as per Section 2(28) of the Tamil Nadu Town and Country Planning Act, 1971, which clearly shows that the "occupier" includes any person for the time being paying or liable to pay to the owner the rent or anyone who is staying as a rent-free occupant, admittedly, the petitioner has been in occupation of the premises in question on the strength of the lease deed dated 26.06.2003 executed for a period of ten years from 01.07.2003 to 30.06.2013. Subsequently, the said lease has also been extended till 30.06.2023 through the lease deed dated 10.06.2013. While so, before ordering demolition, the petitioner should have been put on notice. But till date, no notice whatsoever has been issued to the petitioner. As the petitioner has been running the Non Banking Financial Company from 2003 onwards peacefully and lawfully, hundreds of customers coming to the office of the petitioner would be frustrated, if the premises in question is sealed. The learned Senior Counsel appearing for the petitioner also submitted that if the building sealed by the Respondent No.1 is not de-sealed, in the event any maturity amount liable to be refunded to the customers is not made on account of lock and seal, the same would be viewed seriously by the customers and



the petitioner would be forced to face even criminal prosecution. Therefore, as the petitioner was not impleaded in any proceeding and no notice whatsoever has been issued, the petitioner, unwilling to contest the case against the Respondent No.1 or the Respondent Nos.2 & 3, has been advised to come to this Court seeking only a reasonable time to vacate and handover possession of the building in question. On this basis, the learned Senior Counsel prayed for atleast three months time.

3. Mr.P.Srinivas, learned counsel appearing for the Respondent No.1 submitted that as the building in question has been put up by the landowners of the petitioner without even obtaining the planning permission/approval, action has been taken under Section 217-J of the Tamil Nadu District Municipalities Act. Finally the matter came to this Court in C.R.P.(NPD) No.1767 of 2017 and this Court, by order dated 28.02.2022, not compromising to the violations committed by the landowners, which are given as under,

| Sl. No. | Details                | Required as per MASTER PLAN | Required as per Hill Station Building Rule | As per Site                      | % of Violation |
|---------|------------------------|-----------------------------|--------------------------------------------|----------------------------------|----------------|
| 1       | Plot Extent            | 200 Sq.Mt.                  | 95 Sq.Mt. Rule 4(1)                        | 343.77 Sq.Mt                     | No Violation   |
| 2       | No. of Floors          | G+1                         | G+1                                        | G+4                              | 100% Violation |
| 3       | Height of the Building | 7 Mt.                       | 7 Mt. Rule 11(3)                           | 14.20 mt.                        | 100% Violation |
| 4       | Roof of top floor      | Slope                       | Slope Rule 11(3)                           | Flat                             | 100% Violation |
| 5       | Front Set Back         | 3.00 Mt.                    | 1.30 Mt. Rule 11(2) (a)                    | Nil                              | 100% Violation |
| 6       | Side Set Back-1        | 3.00 Mt.                    | --                                         | Nil                              | 100% Violation |
| 7       | Side Set Back-2        | 3.00 Mt.                    | --                                         | $\frac{0.90+0.30}{2} = 0.60$ Mt. | 80% Violation  |
| 8       | Rear Set Back          | 3.00 Mt.                    | --                                         | 0.90 Mt.                         | 70% Violation  |



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| Sl. No. | Details       | Required as per MASTER PLAN | Required as per Hill Station Building Rule | As per Site    | % of Violation |
|---------|---------------|-----------------------------|--------------------------------------------|----------------|----------------|
| 9       | Open Space    | --                          | 1/4 th of the area Rule 11(4)              | Not Sufficient | 100% Violation |
| 10      | Plot coverage | 40%                         | 75% Rule 11(4)                             | 96.30%         | 100% Violation |
| 11      | Car Parking   |                             | 238 Sq.Mt.                                 | Not provided   | 100% Violation |

dismissed the revision petition. Therefore, the officials from the Udhagamandalam Municipality have sealed the premises today morning. Hence the petitioner has to approach only the Respondent Nos.2 & 3.

4. In reply, the learned Senior Counsel appearing for the petitioner submitted that since the petitioner was not put on notice as a lawful occupier, and all of a sudden they have sealed the premises, by virtue of the order passed by this Court on 28.02.2022 in C.R.P.(NPD) No.1767 of 2017, the entire business of the petitioner would be put to peril, if reasonable time is refused to make alternative arrangements.

5. Having heard the learned counsel on either side, considering the peculiar facts and circumstances of the case, while refusing the prayer for granting six months time, we grant only six weeks time from the date of receipt of a copy of this order to the petitioner to vacate from the premises in question. Needless to mention that the Respondent No.1 shall de-seal the premises to enable the petitioner to make alternative arrangements. With this observation, the writ petition stands disposed of. Consequently, W.M.P.Nos.15926 & 15927 of 2022 are closed. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

SS



To

1. The Commissioner  
Udhagamandalam Municipality  
Udhagamandalam  
The Nilgiris

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+1cc to M/s.Ramya Subramanian, Advocate SR. No. 41474

W.P.No.16636 of 2022

SS (CO)

PR (01/07/2022)