



W.P.No.22071 of 2017

**W.P.No.22071 of 2017**

WEB CO **M.S.RAMESH,J.**

Holding that there were unauthorized occupants in the premises belonging to the Udagamandalam Municipality, Hon'ble Mr.Justice S.M.Subramaniam had passed an order in W.P.No.22071 of 2017, with the following directions:-

*"14. Accordingly, the following orders are passed:*

*(i)The respondents 1 and 4 are directed to issue show cause notice to all the unauthorised occupants, who all are in occupation of the premises belonging to the Udagamandalam Municipality, within a period of two weeks from the date of receipt a copy of this order.*

*(ii)The respondents 1 and 4 are directed to follow the procedures as contemplated under the provisions of the Act and thereafter evict all the unauthorised occupants and take possession of such properties by completing the exercise within a period of three months from the date of receipt of a copy of this order.*

*(iii)After taking possession, the 4th respondent shall initiate steps to allot the official quarters to eligible employees by following the*



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*application seniority and the procedures as contemplated, for their lawful occupation.*

*(iv) In respect of unauthorised occupants, the respondents 1 to 4 have to initiate all further actions to recover the arrears of rent or otherwise, due to the Municipality by following the procedures as contemplated under the relevant statute or by invoking the provisions of Revenue Recovery Act, as the case may be.*

*15. With the above directions, the writ petition is **disposed of**. No costs. Consequently, connected miscellaneous petition is closed.*

*16. The registry is directed to post the matter, for reporting compliance, on 20.02.2023."*

2. Accordingly, the writ petition was listed today under the caption 'for reporting compliance'.

3. The learned Standing Counsel appearing for the Municipality had filed a status report, in which, it is informed that as on date, the Municipality have vacated 12 unauthorized occupants and 93 occupants continue to remain in the premises, in view of the stay granted by an



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Hon'ble Division Bench of this Court in W.A.No.341 of 2023, dated 15.02.2023. As such, compliance of the directions of the earlier order of this Court in W.P.No.22071 of 2017, may not be feasible.

4. This Court is of the view that the present writ petition can be heard along with W.A.No.341 of 2023. Hence, Registry is directed to place this matter before the Hon'ble Acting Chief Justice for obtaining appropriate orders.

**20.02.2023**

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20.02.2023



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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 28.11.2022**

**CORAM :**

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**W.P.No.22071 of 2017**

**and**

**W.M.P.No.23125 of 2017**

1. B.Manikammal

2. B.Radhamani

3. R.Indrani

4. T.Uma

5. A.Vijayalakshmi

6. N.Kokila

7. M.Ramamuthry

... Petitioners

**-Vs-**

1. The District Collector

O/o. the District Collector Udagamandalam,  
Nilgiris District.

2. The Additional Director

Commissionerate of Municipal Administration  
Chepauk, Chennai 600 005



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3. The Director,  
O/o. the Directorate,  
Regional Director of Municipal Administration,  
J.G.Nagar, 1st Main Road,  
Kumaranathapuram, Tiruppur-2.

4. The Commissioner,  
Udagamandalam Municipality,  
Udagamandalam,  
Nilgiris District.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus, directing the 4th respondent to take necessary steps in pursuance to his own proceedings in Na.Ka.No. A9/3397/2004, dated 28.09.2013, and proceedings in Na.Ka.No.A9/3397/2004, dated 08.10.2013, and consequently to take appropriate steps to vacate the unauthorized occupants in the quarters of the Respondents Udagamandalam Municipality and thereby to re-allot the quarters to the petitioners.

For Petitioners : Mr.Dr.R.Gouri

For Respondents :

For R1 : Mr.T.K.Saravanan, GA

For R2 & R3 : Mrs.R.L.Karthika, GA

For R4 : Mr.P.Srinivas



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## **ORDER**

**WEB COPY** The writ on hand has been instituted to direct the fourth respondent to take necessary steps pursuant to the proceeding dated 28.09.2013 and 08.10.2013 and consequently initiate appropriate actions to vacate the unauthorised occupants in the quarters of the respondent Udagamandalam Municipality, and thereby, re-allocate the quarters to the employees who all are working in the Municipality.

2. The petitioners are working as Sanitary workers in the respondent Udagamandalam Municipality. They are the regular employees and the grievance of the petitioners, as raised in the writ petition, is that the official quarters are now being occupied by unauthorised occupants and the regular employees are longing to secure official quarters and their rights are denied.

3. The learned counsel for the petitioner states that the official quarters, owned by Udagamandalam Municipality have been occupied by unauthorised occupants and many quarters have been sublet by retired employees and there are several irregularities occurring in the matter of allotment of official quarters in Udagamandalam Municipality. In view



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of the large-scale illegalities, the regular employees working in Udagamandalam Municipality are unable to avail the official quarters for their benefits and in this regard, the petitioners had submitted several representations, and the authorities have failed to initiate any appropriate action for eviction of unauthorised occupants from the official quarters and thus, the petitioners are constrained to move the present writ petition.

4. Considering the genuineness involved in the grievance addressed by the petitioners, this Court directed the District Collector Nilgiris District, Udagamandalam, to conduct an inspection and submit a status report, enabling this Court to understand the scale of illegalities prevailing in the matter of allotment of official quarters in Udagamandalam Municipality. The District Collector initiated action and consequently submitted a Status Report and relevant paragraphs are extracted herein under:

*3. It is respectfully submitted that; an inspection has been conducted in the Udhagamandalam Urban area quarters belonging to the fourth respondent herein. It is revealed that most of the municipality quarters have been occupied by the Ex-employees of Udhagamandalam Municipality, Legal heirs of the*



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*deceased Ex-employees and some regular employees who are serving presently at Udhagamandalam Municipality. It is humbly submitted that some of the Ex-employees of Udhagamandalam Municipality have been subletting the quarters in form of lease to non-employees by means of an oral arrangement.*

*4. It is respectfully submitted that Udhagamandalam Municipality has quarters in the following locations.*

| Sl.No. | Name of the Location of the quarters | Total No.of quarters | Total No. Occupants |
|--------|--------------------------------------|----------------------|---------------------|
| 1.     | Butt fire                            | 55                   | 55                  |
| 2.     | West bury Road                       | 6                    | 6                   |
| 3.     | Gul Mohammad Road                    | 12                   | 12                  |
| 4.     | Peytons Road                         | 18                   | 18                  |
| 5.     | EB Line                              | 11                   | 11                  |
| 6.     | Main Bazaar                          | 3                    | 3                   |
| 7.     | Barber Line                          | 9                    | 9                   |
| 8.     | Gosha Line Stop                      | 4                    | 4                   |
| 9.     | Upper Bazaar                         | 7                    | 7                   |
| 10.    | Willow Bund.                         | 8                    | 8                   |
| 11.    | R.K.Puaram                           | 12                   | 12                  |
| 12.    | Old Post Office                      | 8                    | 8                   |
| 13.    | Baby Hall                            | 32                   | 32                  |
| 14.    | Slaughter House                      | 92                   | 92                  |
| 15.    | Old Ooty                             | 30                   | 30                  |
| 16.    | HavelockRoad                         | 1                    | 1                   |
| 17.    | Thiruvalluvar Street                 | 54                   | 54                  |



| Sl.No. | Name of the Location of the quarters | Total No.of quarters | Total No. Occupants |
|--------|--------------------------------------|----------------------|---------------------|
| 18.    | Commercial Road                      | 2                    | 2                   |
| 19.    | Den Merry                            | 3                    | 3                   |
| 20.    | Ettines Road                         | 5                    | 5                   |
| 21.    | Commissioner Road                    | 2                    | 2                   |
| 22.    | Pudumund (Marlimund)                 | 2                    | 2                   |
|        | <b>Total</b>                         | <b>376</b>           | <b>376</b>          |

*Out of 376 quarters mentioned in the above list, 106 quarters have been occupied by employees of Udhagamandalam Municipality who are currently working and the remaining quarters are occupied unauthorized occupants, who are no way connected to the employer i.e. 4th Respondent Udhagamandalam Municipal Commissioner. However, a detailed enquiry has to be made to ascertain from whom they have acquired the property. Hence it is pleased that adequate time shall kindly be granted to conduct a detailed enquiry in this regard.*

...

*10. It is respectfully submitted that most of the occupants of the Udhagamandalam Municipality quarters are belonging to Group-D posts like sanitary workers, scavengers, sweeper, etc. serving once upon a time of Udhagamandalam Municipality. Now, they are*



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*refusing to vacate their quarters. Moreover, the 4th Respondent Udhagamandalam Municipal Commissioner has already initiated action to vacate the said quarters by issuing show Cause notice to outsiders as per Tamilnadu Public Premises (Eviction of Unauthorised Occupants) Act 1975, and final notice has been issued to the retired staffs. The Process of vacating outsiders from the quarters owned by the Municipality has been initiated and since then nearly 60 quarters have been vacated by the Fourth Respondent Udhagamandalam Municipal Commissioner and the same were allotted to the staffs. Further, the 4th Respondent Udhagamandalam Municipal Commissioner is instructed to vacate the remaining quarters which is occupied by unauthorized persons as per the Tamilnadu Public Premises (Eviction of Unauthorised Occupants) Act 1975.”*

5. A perusal of the Status Report reveals that large-scale illegalities prevail in the matter of allotment of quarters in Udhagamandalam Municipality. Out of 376 quarters, only 106 quarters are being occupied by the employees of the Udhagamandalam Municipality, and the rest of the quarters are occupied by unauthorised persons and such a shocking information is not dealt with by the competent authority



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for a long time. The very purpose and object of construction of official quarters has been defeated and therefore, stern action is warranted.

6. In the context of unauthorised occupation of public premises, the provisions of the Tamil Nadu Public Premises Eviction of Unauthorised Occupants Act 1995, contemplates procedures to be followed for the eviction of unauthorised occupants. **Section 2(e)** defines "*Public premises*" means any premises belonging to or taken on lease or requisitioned by, or on behalf of the Government, and includes –

*(1)any premise belonging to, or taken on lease by, or on behalf of:*

*(i)any Company as defined in Section 3 of the Companies Act, 1956 (Central Act 1 of 1956) in which not less than fifty-one per cent of the paid-up share capital is held by the Government; and*

*(ii)any Corporation [not being a company as defined in Section 3 of the Companies Act, 1956 (Central Act 1 of 1956) or a local authority] established by or under any law and owned or controlled by the Government;*

*(2)any premises belonging to or vested in, a local authority or any Board constituted under any law.*



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**Section 4** stipulates the *issue of notice to show cause against order of eviction*. **Section 5** deals with *the eviction of unauthorised occupants*.

7. Importantly, **Section 15** contemplates **Bar of Jurisdiction**. Accordingly *"No Court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person who is in unauthorised occupation of any public premises or the recovery of arrears of the rent, payable under sub-section (1) of Section 7 or the damages payable under sub-section (2) of that section or the costs awarded to the Government or the Corporate Authority under sub-section (5) of Section 9 or any portion of such rent, damages are costs."*

8. Therefore, the provisions of the Tamil Nadu Public Premises Eviction of Unauthorised Occupants Act unambiguously enumerates that the persons who all are in unauthorised occupation of the public premises are liable to be evicted by following the procedures as contemplated under the Act.

9. In the present case, large scale of unauthorised occupations are identified by the District Collector and a Status Report has been filed



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before this Court. The learned counsel for the respondent brought to the notice of this Court that certain Civil Suits are also pending before the Civil Court in Nilgiris District. In respect of the Civil Suit instituted by the unauthorised occupants, the said suit are not maintainable as it is expressly barred under Section 15 of the Act. Once the suit is expressly barred under the provisions of the Act, then no Suit is maintainable under Section 9 of the Code of Civil Procedure.

10. In the present case, there is an express bar of suit contemplated under the provisions of the Act and therefore, no suit is maintainable in respect of unauthorised occupation of public premises. Such suits cannot be a bar for the purpose of the institution of proceedings under the provisions of the Act. Since the suit itself is not maintainable in view of the express bar under the statute and more so read with Section 9 of the Code of Civil Procedure, the institution of the suit will not preclude the powers of the competent authority to issue show cause notice and evict the unauthorised occupants from the public premises.

11. In the present case, the grievance of the petitioners is that the quarters are not allotted to them in view of the unauthorised occupation



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and sub-letting by the unauthorised persons. They are deprived of allotment of quarters, hence they have approached the authorities and thereafter, filed the present writ petition.

12. Even in respect of the land, the provisions of the Tamil Nadu Land Encroachment Act, 1905, shall be invoked by the competent authorities. In respect of the Tamil Nadu Land Encroachment Act also there is a bar of Jurisdiction of Courts under Section 14 of the Act. In view of the provisions of the statutes, mere institution of the suit cannot be a bar for institution of proceedings under the Tamil Nadu Land Encroachment Act or Tamil Nadu Public Premises Eviction of Unauthorised Occupants Act 1975.

13. In the present case, large scale illegalities and unauthorised occupation of public premises are noticed by the District Collector. Thus, this Court is of an opinion that the District Collector has to initiate appropriate action for the purpose of eviction of all the unauthorised occupants and provide allotment to the eligible employees who all are working in the Udagamandalam Municipality.



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14. Accordingly, the following orders are passed:

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(i)The respondents 1 and 4 are directed to issue show cause notice to all the unauthorised occupants, who all are in occupation of the premises belonging to the Udagamandalam Municipality, within a period of two weeks from the date of receipt a copy of this order.

(ii)The respondents 1 and 4 are directed to follow the procedures as contemplated under the provisions of the Act and thereafter evict all the unauthorised occupants and take possession of such properties by completing the exercise within a period of three months from the date of receipt of a copy of this order.

(iii)After taking possession, the 4th respondent shall initiate steps to allot the official quarters to eligible employees by following the application seniority and the procedures as contemplated, for their lawful occupation.

(iv)In respect of unauthorised occupants, the respondents 1 to 4 have to initiate all further actions to recover the arrears of rent or otherwise, due to the Municipality by following the procedures as contemplated under the relevant statute or by invoking the provisions of Revenue Recovery Act, as the case may be.



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15. With the above directions, the writ petition is **disposed of**. No costs. Consequently, connected miscellaneous petition is closed.

16. The registry is directed to post the matter, for reporting compliance, on 20.02.2023.

28.11.2022

Index : Yes  
*Speaking order*  
*sha*

To

1. State of Tamil Nadu,  
Rep. by the Additional Chief Secretary,  
Finance Department,  
Fort St. George Chennai-600 009.

2. The Accountant General, (A and E),  
361, Anna Salai, Teynampet,  
Chennai-600 018.

3. The Director of Agriculture,  
Chepauk, Chennai-600 005.



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**S.M.SUBRAMANIAM.J.,**

***sha***

**W.P.No.22071 of 2017**

**and**

**W.M.P.No.23125 of 2017**

**28.11.2022**