



W.P.Nos.31544, 31547 and 31548 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.Nos.31544, 31547 and 31548 of 2022

W.P.No.31544 of 2022:

- 1 GopiNath
- 2 Meenatchi
- 3 Gowsalya
- 4 Muniyammal
- 5 Anwar Basha
- 6 Manivannan
- 7 Chithra
- 8 Uma
- 9 Jayaraman
- 10 Shanthi
- 11 Elumalai
- 12 Chandra @ Chandrammal
- 13 Elumalai
- 14 Ravi
- 15 Chandiran
- 16 Sulochana
- 17 Thamarai Selvan
- 19 Kavitha
- 20 Ponni
- 21 Banumathi
- 22 Meganathan
- 23 Manjula



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- 24 Chinnamma
25 Gopal
26 Rani
27 Anjallai
28 Vasudevan
29 Velmurugan
30 Kirthi Anandhakumar
31 Nirmala
32 Sivaganesan
33 Shenbagavalli
34 Periyasami
35 Alamelu
36 T Gunavathi
37 Kamala
38 Manikandan
39 Latha
40 Gandhi Mathi
41 Arunkumar
42 Saratha
43 Arumugam, son of Chinnakulanthai
44 Arumugam, son of Periyasamy
45 Kanniamma
46 Kanniammal
47 Vijaya
48 Muniyamma
49 Lakshmi
50 Jyothi

.. Petitioners

vs

The Estate Officer,
Southern Railway,
Divisional Office,
Works Branch,
Tiruchirappalli.

.. Respondent



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W.P.No.31547 of 2022:

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- 1 Sardar Bai
- 2 Sulthan Sariff
- 3 Shaan Basha
- 4 Anbarasan
- 5 Kulab John
- 6 Allabakesh
- 7 Magabul Nisha
- 8 Mallarkodi
- 9 Rsaul Khan
- 10 Jabeena
- 11 Dhawash
- 12 Thangaraj
- 13 Sharika
- 14 Rajaappa
- 15 Vijayan
- 16 Nij Ema Sabeer
- 17 Reshma
- 18 Ansar Basha
- 19 Kula John
- 20 Shabeena
- 21 Kaleel Ahammed
- 22 Thajudeen
- 23 Settu
- 24 Khadar Basha
- 25 Jinath
- 26 Ismail
- 27 Sanahulla
- 28 Jabbar bake
- 29 Kuljar
- 30 Manjula
- 31 Rasheed Khan
- 32 Ravi
- 33 Sabirabi
- 34 Ahameed Bahsa
- 35 Bhadrusha

.. Petitioners

VS



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The Estate Officer,
Southern Railway,
Divisional Office,
Works Branch,
Tiruchirappalli.

.. Respondent

W.P.No.31548 of 2022:

- 1 Singaravel
- 2 Ramakrishnan
- 3 Thulasi
- 4 Lakshmi
- 5 Venkatesan
- 6 Govindhan
- 7 Muthu
- 8 Kalashri
- 9 Ramalingam
- 10 Muthammal
- 11 Podhuma

.. Petitioners

VS

The Estate Officer,
Southern Railway,
Divisional Office,
Works Branch,
Tiruchirappalli.

.. Respondent

Prayer: Petitions filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records of the respondent pertaining to order in Form 'B' bearing No.T/W274/Encroachment/Vellore Cantonment dated 26.10.2022 and quash same.



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For the Petitioners : Mr.P.Wilson
Senior Counsel
for Mr.Richardson Wilson
for M/s.P.Wilson Associates

For the Respondent : Mr.V.Chandrasekaran
Standing Counsel

COMMON ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

The applications, being W.M.P.Nos.30997, 31000 and 31003 of 2022, filed to permit the petitioners to file single writ petitions are allowed, inasmuch as they have paid separate sets of court-fee.

2. Challenging the impugned order in Form-B dated 26.10.2022 issued by the respondent, the petitioners have filed these writ petitions.

3. Learned senior counsel appearing for the petitioners submitted that prior to the issuance of the impugned orders in Form-B, the respondent issued Form-A under sub-section (1) of



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Section 4 of the Public Premises (Eviction of Unauthorized occupants) Act, 1971 calling upon them to appear on 23.08.2022 at 10.00 a.m. Pursuant to the issuance of Form-A, all the petitioners travelled from Vellore to Villupuram and made themselves present at the venue, namely Railway Kalyana Mandapam, with their individual replies along with documents. However, personal hearing was not afforded to the petitioners and neither the respondent nor anybody perused the records brought by the petitioners. In fact, the petitioners were not even permitted inside the hall due to lack of space. While so, the respondent has issued the impugned orders in Form-B directing the petitioners to vacate from the land in question within thirty days from the date of publication of Form-B.

4. Learned senior counsel would submit that all the petitioners are residing in the land in question for the past three decades and they have been provided with electricity connection, water connection, sewerage facilities, street lights, etc., and they have also been issued ration cards, aadhar cards and voter ID cards,



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which particulars have been in detail stated in the writ petitions. Since the impugned orders in Form-B have been issued without affording personal hearing, the same are liable to be quashed.

5. Learned standing counsel appearing for the respondent submitted that the lands that the petitioners have encroached belongs to the Railways and there is no document before the Court to show that the petitioners are the owners of the land in question and they have been issued pattas. In the absence of any documentary proof and since the petitioners are rank encroachers, the competent authority has issued with the impugned order in Form-B. Therefore, the writ petitions are not maintainable and the same are liable to be dismissed.

6. As per Section 9 of the Public Premises (Eviction of Unauthorized occupants) Act, 1971, an appeal shall lie from every order of the Estate Officer made in respect of any public premises under Section 5 or Section 5-B or Section 5-C or Section 7 to an Appellate Officer, who shall be the District Judge of the District in



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which the public premises is situate.

7. The impugned orders in Form-B have been issued under Section 5(1) of the Public Premises (Eviction of Unauthorized occupants) Act, 1971. When there is an effective statutory appellate remedy available to the petitioners against the impugned orders in Form-B, the writ petitions are not maintainable. Further, the non-production of any document by the petitioners, as alleged by the respondent, is a disputed question of fact and the same cannot be adjudicated in these writ petitions.

8. Since an effective statutory appellate remedy is available to the petitioners to challenge the impugned orders in Form-B, we hereby grant two weeks' time to the petitioners from the date of receipt of a copy of this order to file appeals against the impugned orders in Form-B before the District Judge of the District concerned. Till the filing of the appeals, the respondent shall maintain status quo.



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9. With the aforesaid observation, the writ petition is disposed of. There will be no order as to costs. Consequently, W.M.P.Nos. 30998, 30999, 31001, 31002, 31005 and 31007 are closed.

(T.R., ACJ.) (D.K.K., J.)
28.11.2022

Index : Yes/No
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To:

The Estate Officer,
Southern Railway,
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Works Branch,
Tiruchirappalli.



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AND
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