



W.P.(MD) No.24952 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2022

CORAM:

**THE HON'BLE MR.T.RAJA, THE ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE R.MAHADEVAN**

**W.P.(MD) No.24952 of 2022
and
W.M.P.(MD)Nos.19051 and 19054 of 2022**

S.Ramakrishnan

... Petitioner

-VS-

1. The State of Tamil Nadu,
Rep by the Secretary,
Department of Revenue,
Fort. St. George, Chennai - 9.

2. The District Collector,
Sivagangai District, Sivagangai.

3. The Tahsildhar,
Manamadurai Taluk, Sivagangai District.

4. The Southern Railways,
Rep by its Estate Officer,
Divisional Office, Works Branch,
Madurai.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in No.U/W.274/ADEN/Central/MDU, dated 11.10.2022, served upon the petitioner on 19.10.2022 on the file of the respondent no.4 and quash the same as illegal and consequently direct the respondents 1 to 4 not to evict the petitioner from his property in Survey Nos.409 and 410 at Anna Nagar, Manamadurai, Sivagangai District, without following due process of law.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader
for R.1 to R.3

: Mrs.L.Victoria Gowri,
Assistant Solicitor General of India for R4

ORDER

**[Order of the Court was made by
The Hon'ble The ACTING CHIEF JUSTICE]**

This writ petition has been filed challenging the impugned proceedings in No.U/W.274/ADEN/Central/MDU, dated 11.10.2022, passed by the fourth respondent and consequently, for a direction to the respondents 1 to 4, not to evict the petitioner from his property in Survey Nos.409 and 410 at Anna Nagar, Manamadurai, Sivagangai District, without following due process of law.



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2. Heard Mr.T.Lajapathi Roy, learned counsel for the petitioner; Mr.G.V.Vairam Santhosh, learned Additional Government Pleader, who accepts notice on behalf of the respondents 1 to 3 and Mrs.L.Victoria Gowri, learned Assistant Solicitor General of India, who accepts notice on behalf of the fourth respondent. By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.

3. Questioning the correctness of the impugned notice dated 11.10.2022, namely, Form-B notice issued under Section 5(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (in short “the Act”), the learned counsel for the petitioner submitted that the fourth respondent has been vested with the power under Section 5(1) of the Act and that the power could have been exercised only after giving a notice under Section 4 of the Act. Without complying the conditions stipulated under Section 4 of the Act, which demands the fourth respondent to issue a notice, even if he is of the opinion that any persons are in unauthorised occupation of any public premises and that should be evicted, he shall issue notice in writing calling upon all persons concerned to show cause as



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to why an order of eviction should not be made and the notice shall specify the grounds on which the order of eviction is proposed to be made and also all the persons concerned, who are in occupation of the public premises to show cause.

4. Again, drawing our notice to the earlier order of this Court dated 27.11.2017, in W.P(MD) No.21784 of 2017, the learned counsel for the petitioner submitted that when the same and similar lapse / error was committed by the fourth respondent, this Court while quashing the similar order, gave liberty to the fourth respondent to proceed in the manner known to law, but for the reasons best known to them, they have not even followed the same.

5. A perusal of the order dated 27.11.2017, passed by this Court in W.P(MD) No.21784 of 2017 shows that the petitioner was not provided with an opportunity to explain his case before the fourth respondent. Learned Assistant Solicitor General of India appearing for the fourth respondent after going through the earlier order passed by this Court, has no explanation to support the impugned notice. Therefore, we do not have any hesitation to again interfere with the impugned order.



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6. Accordingly, this writ petition is allowed and the impugned order of the fourth respondent in No.U/W.274/ADEN/Central/MDU dated 11.10.2022, is quashed and we direct the fourth respondent to issue a fresh show cause notice to the petitioner, giving two weeks time to submit his explanation as to why he should not be proceeded with for eviction. No costs. Consequently, connected miscellaneous petitions are closed.

[T.R., A.C.J.] [R.M.D., J.]
03.11.2022

Index : Yes / No

Internet : Yes / No

sj/pkn

To:

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Department of Revenue, Fort. St. George, Chennai - 9.

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Sivagangai District, Sivagangai.

3. The Tahsildhar,
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