



WEB COPY



W.P.No.10120 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10120 of 2023
and
W.M.P.Nos.10142, 10144 & 10147 of 2023

B.Mani

...Petitioner

Vs.

1.The Estate Officer,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai- 600 001.

2.Janab. A.J.Mohamed Iqbal,
President / Hereditary Muthawalli,
Jumma Masjid,
Kallakurichi – 606 202.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice issued by the 1st respondent in Case No.PP/5/Cudd/2023 dated 16.02.2023 and thereby quash the same as illegal, arbitrary and without jurisdiction for the property measuring an extent of 498 Sq.Ft and superstructure at D.No.74A, Durugam Road, Kallakurichi – 606 202.



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For Petitioner : Mr.G.Anandaraj
For R1 : Mr.S.Haja Mohideen Gisthi

ORDER

The show cause notice issued under Section 4 of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975 (hereinafter referred to as the Act) in Form-A dated 16.02.2023 is under challenge in the present writ petition.

2. The petitioner states that the property in S.No.291/1, measuring an extent of 498 Sq.Ft situated at Door No.74A, Durugam Road, Kallakurichi Town – 606 202 and District belonged to Waqf called Jumma Masjid. It is a public Waqf. The Jumma Masjid is a surveyed and notified Waqf and under the supervisory control of the Tamil Nadu Waqf Board.

3. The petitioner states that he is a Lessee in the Wakf property and running a shop under the name and style of M/s.Sri Lakshmi Iyengar Sweets & Bakery in the said premises for about 25 years. There are about 40 tenants in the above subject property and some of them were already issued with notice by the Tamil Nadu Wakf Board under the Act. The petitioner claims that he is entitled to continue in the said premises.



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4. However, the 1st respondent has issued a show cause notice, stating that the petitioner is an unauthorized occupant. The impugned show cause notice reveals that the petitioner is an unauthorized occupant under Section 2(g) of the Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act, 1975. There is no rental agreement existing between the petitioner and the Wakf. Therefore, the Estate Officer by invoking Section 4 of the Act, issued show cause notice in proceedings dated 16.02.2023.

5. No writ against the show cause notice is entertainable in a routine manner. Writ against the show cause notice can be entertained only if the notice was issued by an incompetent authority having no jurisdiction or an allegation of *mala fides* are raised against the authority concerned. Even in case of allegation of *mala fides* are raised, such authority must be impleaded as a party respondent in his personal capacity.

6. In the present case, the petitioner could not establish that he is the holder of a valid lease or agreement in his favour. That being the factum, the petitioner has to establish his case before the Estate officer by participating in the adjudication. The 1st respondent / Estate Officer has given 10 days



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time for submitting his explanations and thus, the petitioner is at liberty to participate in the process of enquiry to be conducted by the Estate Officer by following the procedures as contemplated under the provisions of the Act.

7. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

31.03.2023

Index : Yes
Speaking order
Neutral Citation: Yes

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To

1. The Estate Officer,
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No.1, Jaffer Syrang Street,
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Chennai- 600 001.



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S.M.SUBRAMANIAM, J.

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