



W.A.No.1433 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.A.No.1433 of 2023

The Tamil Nadu Government Department
Drivers Central Association
Rep. by its State President M.Subramani
4/20, Mayor V.R.Ramanathan Road
Chetpet, Chennai – 600 031.

.. Appellant

Vs.

1. The Chief Engineer (Building & General)
Public Works Department
Chepauk, Chennai – 600 005.
2. The Assistant Engineer
Public Works Department
Egmore Section, Museum Compound
Chennai – 600 008.
3. The Assistant Executive Engineer
North West Sub Division
Egmore, Chennai – 600 008.
4. The Executive Engineer
Public Works Department
Chennai City Division
Chepuk, Chennai – 600 005.



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5. N.Malathi
6. G.Pramila Devi
7. K.Usha
8. Nagarajan
9. K.Sagadevan
10. T.Umapathy
11. R.Somasundaram
12. A.Lakshmana Perumal
13. S.Senthil
14. A.Raghu
15. C.K.Chandran
16. A.Kumar
17. G.Rajesh Kumar

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order in W.P.No.29319 of 2012 dated 31.03.2023.

For the Appellant : Mr.S.Illamvaludhi

For the Respondents : Mr.P.Muthukumar
State Government Pleader
assisted by Mrs.R.Anitha
Special Government Pleader
for R1 to R4

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

The present appellant had filed a writ petition in W.P.No.29319 of 2012 challenging the order passed by the respondents 2,3 and 4. It further sought directions against the respondents to initiate steps to evict the shopkeepers to enable the Association to utilize the entire building.



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2. We have heard Mr.S.Illamvaludhi, learned counsel for the appellant / original writ petitioner.

3. According to learned counsel for the appellant, the writ land was allotted to the appellant by the Government on lease initially for a period of ten years. However, impliedly, the same was continued for a further period also. Learned counsel for the appellant submits that steps were being taken by the appellant to evict the encroachers. The encroachers filed various suits, which were contested by the present appellant. The suits were dismissed and the appeals were dismissed. It is not that the present appellant is responsible for inducting the encroachers. According to the learned counsel for the appellant, the learned Single Judge ought not to have directed eviction of the present appellant.

4. Reliance is also placed by the learned counsel for the appellant on the communication dated 31.03.2023 i.e, a Government Order, wherein, the maintenance amount has been enhanced to the appellant.



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5. Learned State Government Pleader submits that the appellant illegally inducted the tenants in the shape of shopkeepers and violated the conditions. The appellant failed to take steps to evict them and so rightly, the impugned order in the writ petition is passed.

6. It is not a dispute that under the Government Order dated 30.11.1978, the appellant Association was allotted land to the extend of 2 grounds and 126 Sq.Ft. by way of lease, initially for a period of ten years with a condition that the land can be utilized for the purpose of Association Office. It was to be utilized by the members of the appellant Association and that the premises was not to be rented for any other commercial activities.

7. It was the case of the present appellant that the present Office Bearers took charge in 2011 and the erstwhile Office Bearers, in order to meet the deficit of funds, rented out the portions to the tenants i.e., the shopkeepers and advance was also received from those shopkeepers.

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8. The Office Bearers may have changed, but the Office Bearers have performed the functions on behalf of the Association, by indicting the shopkeepers and taking advance amount from them, is certainly a breach of the condition. The steps taken by the appellant now, to evict them, would be an action too late in the day.

9. There is no agreement renewing the lease for further period. The condition is violated, still, the respondent State gave an opportunity to the appellant to evict the encroachers. It is only after the order was passed by the State Authorities, the appellant moved the Court by filing the writ petition.

10. We do not find any error committed by the learned Single Judge while passing the impugned order.

11. If the appellant seeks continuation of the lease, it would be the choice of the Government, either to continue the lease or not. The appellant may approach the Government in that regard and it would be at the discretion of the Government to take a decision. Naturally, if



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the Government wants to evict the appellant, they will certainly have to follow the process of law.

12. With these directions, the writ petition is disposed of. There will be no order as to costs. Consequently, C.M.P.No.13930 of 2023 is closed.

(S.V.G., CJ.)

(P.D.A., J.)
07.07.2023

Index : Yes/No
Neutral Citation : Yes/No

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