

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05-06-2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP Nos.13337 and 14097 of 2023

And

WMP Nos.13054 and 13731 of 2021

Ashwaq Ahmed

... Petitioner in WP 13337/2023

Pawan Kumar Jain

... Petitioner in WP 14097/2023

Vs.

The Sub Collector/Chairman,
Coronation Hall Committee,
Sub Collector Office,
Hosur.

... Respondent in both WPs

WP 13337 of 2023 is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the impugned notice issued by the respondent bearing No.Na.Ka.Coronation Hall Committee/23 dated 06.02.2023 and quash the same.

WP 14097 of 2023 is filed under Article 226 of the Constitution of

India for issuance of a Writ of Certiorari, calling for the records of the impugned notice issued by the respondent bearing No.Na.Ka.Coronation Hall Committee/23 dated 06.02.2023 and quash the same.

For Petitioner in both WPs : Mr.U.Manogar

For Respondent in both WPs : Mr.T.Arunkumar,
Additional Government Pleader.

COMMON ORDER

The notice issued by the respondent in proceedings dated 06.02.2023 asking the petitioners to vacate the Commercial Shop occupied by him within 60 days, is under challenge in the present writ petition.

2. The petitioners state that they are in occupation of the Commercial property situated in Hosur Main Road (Trunk Road) of Hosur Town bearing Shop Nos.110-B and 110. The properties belong to Hosur Coronation Hall Committees / Government. The properties were leased out by the Committee in favour of the Paternal Uncle of the writ petitioners in the year 1991. The lease period expired in the year 1992.

3. Admittedly the lease was not granted in favour of the writ

petitioners. However, the petitioners are in occupation of the Commercial Shop for the past about 30 years without any lease.

4. The learned Additional Government Pleader appearing on behalf of the respondent brought to the notice of this Court that the petitioners are paying the meagre rent of Rs.500 from the year 1991 onwards and the building is also in dilapidated condition. Under those circumstances, the Authorities Competent have taken a decision to demolish the building and to reconstruct the same for the benefit of the Government.

5. In this regard, notice was issued to the writ petitioners on 06.02.2023 by the Hosur Coronation Hall Committee and the Sub Collector, Hosur, which is under challenge in these writ petitions.

6. The learned counsel for the writ petitioners state that the petitioners are paying the rent regularly and they are running the Commercial Shop in the subject place of the properties. The building is not in a damaged condition and therefore, it need not be demolished. The decision taken by the Authorities are incorrect and thus the notice issued by

the Authorities is to be quashed.

7. The learned Additional Government Pleader appearing on behalf of the respondent further reiterated that the petitioners were irregular in payment of rent and have committed default in payment of rent.

8. No writ against the show cause notice is entertainable in a routine manner. The writ against the show cause notice is maintainable only if it has been issued by the Incompetent Authority having no jurisdiction or an allegation of mala fides are raised. In all other circumstances, the parties are bound to defend the same.

9. In the present case, the Authorities found that the building is in dilapidated condition and have taken a decision to demolish the building and reconstruct the same. That apart, the writ petitioners are not the original Lessees. Their Paternal Uncles were the Lessees and the lease got expired in the year 1992 itself.

10. The petitioners are in illegal occupation of the subject

properties for the past about 30 years and paying the meagre rent in an important Commercial location at Hosur Town and therefore, this Court is of the considered opinion that the petitioners are not entitled to continue in the premises any more. The petitioners have no right to occupy the public premises belonged to the Government and thus, there is no infirmity in respect of the notice issued to the writ petitioners.

11. The notice was issued by the respondent on 06.02.2023 granting 60 days time for the petitioners to vacate the premises and handover the same to the respondent. Since the building is in dilapidated condition, it is not advisable to allow the petitioners to continue in the subject premises. More-so, as they are illegal occupants of the subject premises, they have no right to continue in the public property.

12. The Competent Authorities are responsible and accountable to protect the State Revenue. The Authorities Competent are bound to ensure that the Government properties leased out are maintained properly and the rent and the arrears of rent and other charges are recovered properly. In the event of any lapses, negligence or dereliction of duty, appropriate

disciplinary proceedings are to be initiated against all such Official Authorities, who all are committing such lapses.

13. For all the above reasons, the petitioners are directed to vacate the subject premises, within a period of two months from the date of receipt of a copy of this order, failing which the respondents shall evict the petitioners with the assistance of the police without granting any further time.

14. With the above directions, the writ petitions stand dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

05-06-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

To

The Sub Collector/Chairman,
Coronation Hall Committee,
Sub Collector Office,
Hosur.

S.M.SUBRAMANIAM, J.

Svn

WPs 13337 and 14097 of 2023

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