



WEB COPY



W.P.No. 16441 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.02.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No. 16441 of 2021

Madras Gymkhana Club

... Petitioner

versus

The Defence Estate Officer,
Defence Estates Office,
Madras Circle, 306, Anna Salai,
Teynampet,
Chennai – 600 018.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order of the respondent, bearing No. Q/11/X/29/MC dated 27.07.2021 and quash the same for being arbitrary and illegal.

For the Petitioner : Mr. M.S. Rajeshakar

For the Respondents : Mr. Dhiraj



W.P.No. 16441 of 2021

ORDER

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The writ petition has been filed in the nature of certiorari seeking interference with the order of the respondent/Defense Estates Officer, at Defense Estates Office, Teynampet at Chennai relating to an order dated 27.07.2021 in bearing No. Q/11/X/29/MC.

2. The petitioner is Madras Gymkhana Club and it is represented by its Honorary Secretary K. Parthasarathy.

3. The respondent had issued a notice dated 27.07.2021 now complained of by the writ petitioner. By the said notice, the respondents had stated that the petitioner has been in occupation of 8.608 acres of Defence land in R.S.No. 13, Vepery, Chennai and it is stated that the lease originally executed was in force from 14.11.1986 till 30.11.2003.

4. It had been further stated that the lease had expired on 30.11.2003 and that the petitioner herein had been in unauthorized occupation of the aforementioned land beyond 30.11.2003 without any authority or sanction of Government of India, Ministry of Defence.



W.P.No. 16441 of 2021

5. It had also been alleged that the petitioner had made vast unauthorized constructions on the aforesaid land without obtaining any prior permission from the competent authority. In view of all those reasons, the respondents stated that the petitioner should vacate the Defense land within seven days from the date of receipt of such notice, failing which, the respondent reserved their right to evict the petitioner from the unauthorized occupation of the Defense land by using such force as they can. The said notice was dated 27.07.2021 and had been received by the petitioner on 31.07.2021.

6. The writ petition had been filed within three days on 03.08.2021. Naturally the grounds raised are violation of principles of natural justice which necessitate that prior to issuance of any notice calling upon any person to vacate from any place there must be prior intimation, there must be an opportunity granted to explain, there must be an opportunity to give representation and there must also be an effective hearing of whatever is represented. Whether principles of natural justice would apply or not apply, is a question I would not answer at the present stage.



W.P.No. 16441 of 2021

7. It is suffice to point out that the learned Additional Solicitor General who appears on behalf of the respondent had stated on instructions that he is instructed to state that the respondent, withdraws the said notice. The said statement made across the bar by learned Additional Solicitor General is taken as a statement made by the respondent. The Officer who issued the notice was the Defense Estates Officer, Madras Circle, Chennai.

8. Learned Additional Solicitor General also stated that the successor in office is present in Court today. At any rate, the officer who holds such designation is present in Court. I am confident that the representation made to withdraw the notice is made after much deliberation and with much thought applied to that decision.

9. In view of that particular representation made that the notice is withdrawn, nothing further survives for adjudication. The parties are at liberty to enter into any correspondence they wish and I would leave it to their wisdom to issue such correspondences from their respective ends as they are so advised.



W.P.No. 16441 of 2021

10. In view of this particular fact, the writ petition stands disposed of, recording the statement that the notice impugned stands withdrawn. No costs. Consequently, connected W.M.P.No. 17409 of 2021 is closed.

03.02.2023

Index: Yes/no
mrn

To
The Defence Estate Officer,
Defence Estates Office,
Madras Circle, 306, Anna Salai,
Teynampet,
Chennai – 600 018



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W.P.No. 16441 of 2021

C.V.KARTHIKEYAN, J.
(mrn)

W.P.No. 16441 of 2021

03.02.2023