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C.R.P.No.3027 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.3027 of 2022

and

C.M.P.No.16327 of 2022

1.Mrs.Helen
2.Mr.David
3.Mrs.Jassi
4.Mrs.Lessi

... Petitioners

Vs.

1.Muthawalli
Charchaman Mosque,
No.15, Appu Mudali Street,
Mylapore, Chennai – 600 004.

2.The Estate Officer,
[Appointed u/s 3 of Tamil Nadu Public Premises
(Eviction of Unauthorized Occupants) Act, 1975,
Act 1 of 1976]
Wakf House No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.

... Respondents

Prayer: Civil Revision Petition is filed under Section 151 of C.P.C.,
praying to set aside the fair and final order dated 21.06.2022 in
C.M.A.No.32 of 2021 passed by the learned Principal Judge, City Civil



Court at Chennai, confirming the order passed by the 2nd respondent in P.P.Case No.16/CHEN/2020, dated 10.08.2021 and allow the Civil Revision Petition.

For Petitioners : Mr.S.Sabarish
For R1 : Mr.N.A.Nissar Ahmed
Senior Counsel
For Mrs.I.Kowser Nissar
For R2 : Mr.S.Hajamohideen Gisthi

ORDER

The Civil Revision Petition has been filed to set aside the Fair and Final order dated 21.06.2022 in C.M.A.No.32 of 2021 passed by the learned Principal Judge, City Civil Court at Chennai, confirming the order passed by the 2nd respondent in P.P.Case No.16/CHEN/2020, dated 10.08.2021.

2. The revision petitioners were considered as unauthorized occupants in respect of the Wakf property and the Estate officer under the provisions of the Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act, 1975 (TN Act 1 of 1976) [in short, the Act]. The first respondent / Muthawalli, Charchaman Mosque, filed a complaint under the



provisions of the said Act before the Estate Officer, who in turn, adjudicated the issues and passed an order on 10.08.2021 to evict the revision petitioners by holding that the revision petitioners are the unauthorized occupants. The property in R.S.No.2599/2, Block No.53, measuring 00.11.46.5 sq.m in Mylapore Village belongs to the first respondent/Wakf. The schedule mentioned premises is under the unauthorized occupation of the revision petitioners and therefore, the first respondent/Wakf filed a petition for eviction of the unauthorized occupants.

3. The revision petitioners filed a counter statement before the Estate Officer, stating that the schedule property is not comprised in the wakf called Charchaman Mosque, Chennai and the respondents are not unauthorized occupants. They are in occupation of the property from the year 1920 and for three generations, they are living in the said area. It was contended that the revision petitioners are paying property tax and enjoying electricity service connection and obtained Patta and Metro Water service connections. Therefore, the petitions filed by the first respondent/Wakf is to be rejected. The Estate Officer considered the definition of the term 'Unauthorized Occupation' with reference to Section 2 (g) of the Act.



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Pursuant to the definition, it is clear that if a person continues in occupation of a public premises after expiry of the authority by which he was allowed to occupy or after such authority has been determined, such public premises would be considered to be under unauthorized occupation of such person.

4. In the present case, the revision petitioners are in occupation of the schedule premises without any valid lease agreement. Any person in occupation of the Wakf property without any authority for such occupation and includes in continuance in occupation are unauthorized occupant. The revision petitioners in the present case do not have any valid document, which is enforceable for their occupation. More so, the revision petitioners are not paying any rent for the said premises to the Wakf and mere payment of property tax without paying any rent would not confer any right on such unauthorized occupant to continue in the premises. Thus, the case of the revision petitioners are falling under the definition of Unauthorized Occupation under Section 2(g) of the Act and further, the facts adjudicated reveals that the schedule premises is under unauthorized occupation of the revision petitioners.



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5. The Estate Officer considered the facts and circumstances and accordingly, directed for eviction of the unauthorized occupants from the subject premises. The revision petitioners preferred C.M.A.No.32 of 2021 on the file of the Principal Judge, City Civil Court at Chennai. The Principal Judge, adjudicated the grounds raised between the parties and confirmed the order passed by the Estate Officer with a finding that the Estate Officer of the Wakf Board in the capacity of Estate Officer defined under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, passed the order. Thus, invoking the public premises Act for eviction of the unauthorized occupants of the Wakf property cannot be held as arbitrary or illegal. The Appellate Court found that the Estate Officer carefully considered the contentions of both the parties and documents produced were considered and accordingly, arrived a conclusion that the revision petitioners are the unauthorized occupants and consequently, liable to be evicted under the provisions of the Act.

6. The revision petition filed before this Court do not contain any further grounds for the purpose of reconsidering the decisions taken both by the Estate officer and by the Principal Judge, City Civil Court at Chennai.



The grounds raised before the Principal Judge in C.M.A.No.32 of 2021 are taken before this Court in the present Civil Revision Petition, except adding the general grounds, which deserves no merit consideration.

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7. When both the Estate Officer and the Principal Judge, City Civil Court, Chennai, adjudicated the factual disputes elaborately and arrived a conclusion that the revision petitioners are unauthorized occupants and in occupation of the Wakf property, which is a public premises, this Court do not find any reason to interfere with the orders passed by the Estate Officer and the Principal Judge. The factual findings and the conclusions arrived are in consonance with the provisions of the Act and there is no infirmity as such.

8. Accordingly, the Fair and Final order dated 21.06.2022 in C.M.A.No.32 of 2021 passed by the Principal Judge, City Civil Court, Chennai, confirming the order passed by the 2nd respondent/Estate Officer in P.P.Case No.16/CHEN/2020 dated 10.08.2021 are confirmed and consequently, the Civil Revision Petition stands dismissed.



9. The respondents shall seek the aid of the jurisdictional police for the purpose of evicting the unauthorized occupants within a period of one month from the date of receipt of a copy of this order.

10. No costs. Consequently, connected miscellaneous petition is closed.

31.01.2023

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Index : Yes

Speaking order

Neutral Citation : Yes

To

1.The Principal Judge,
City Civil Court,
Chennai.



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S.M.SUBRAMANIAM, J.

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