



WEB COPY



W.P.No.23253 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2024

CORAM :

THE HON'BLE MR. D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

and

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.23253 of 2024

and

W.M.P No.25425 of 2024

Nethaji Gas Agency
Rep. by its Proprietor
Thiru.S.Sathyanathan Robert
No.40, Seven Wells Street
Chennai-600 001.

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary
Public Works Department
Fort St. George, Chennai-600 009.
2. Greater Corporation of Chennai
Rep. by its Commissioner
Ripon Buildings, Chennai-600 003.
3. The Executive Engineer
PWD, Water Resource Organisation
Ararniyar Basin Division
Chepauk, Chennai-600 005.

... Respondents



W.P.No.23253 of 2024

PRAYER: Writ Petition filed under Article 226 of Constitution of India, for issuance of Writ of Certiorari, calling for the records relating to Proc. No.DB/JDO.4/F.411 Eviction / dated 02.05.2024 by the 3rd respondent herein and quash the same.

For Petitioner : Mr.J.James

For Respondents : Mr.A.Edwin Prabakar

State Government Pleader for Respondents 1 & 3

Mr.G.T.Subramaniam,

Standing counsel for second respondent

ORDER

(Order of the Court was made by the Hon'ble Acting Chief Justice)

This writ petition has been filed to quash Proc. No.DB/JDO.4/F.411 Eviction / dated 02.05.2024 issued by the 3rd respondent herein.

2. The petitioner had entered into an agreement dated 17.03.2010 with Indian Oil Corporation Limited for running the gas agency under the name and style of M/s Nethaji Gas Agency to distribute Gas Cylinders in the locality at Basin Bridge, Chennai. Originally, an extent of 2400 sq.ft. was leased out to him by the third respondent to run the gas agency and the petitioner has paid the lease rent to the third respondent, without any default.



W.P.No.23253 of 2024

Subsequently, vide proceedings dated 01.06.2017, the third respondent permitted the petitioner to utilize the area of 8472 sq.ft. and proportionally, they increased the periodical lease rent also and the same was paid by the petitioner. However, suddenly, the third respondent issued a notice dated 02.05.2024, which was received by the petitioner on 12.06.2024, informing that the lease allotment was cancelled and grant is revoked and requested the petitioner to vacate the premises, within one month. From the above notice, the petitioner understood that, pursuant to the order passed by this Court in W.P.No.6609/2019, dated 12.09.2022, action was taken by WRD for demarcation, eviction and revival of navigation in the Buckingham Canal.

2.1. According to the petitioner, the godown building is constructed according to the norms of the Indian Oil Corporation Limited, strictly following the specifications of Petroleum Explosive Safety Organisation (PESO) and it is not situated in the Wall tax Road-Hood Wharf area, as mentioned in the order of the High Court, but situated in C.B.Road surrounded by vacant lands, which is nearly 100 feet away from the Buckingham Canal. In this connection, the petitioner has given a representation dated 04.07.2024 to the third respondent to drop any further



W.P.No.23253 of 2024

action, however, there was no response from them. Hence this writ petition.

WEB COPY

3. The learned counsel for the petitioner submitted that, before issuing the impugned eviction notice, no prior notice was served to the petitioner and without giving opportunity of hearing, the said eviction notice was issued. It is also contended by him that the land in question, in which the gas agency is running, is not covered in the order passed by the Division Bench of this Court and it is away by 100 feet from the Buckingham Canal and hence, the impugned order is liable to be quashed.

4. The learned Stated Government Pleader appearing for the respondents 1 and 3 submitted that, pursuant to the direction given by the First Bench of this Court, the authorities concerned were directed to take action to evict the encroachments made on the Canal Bank. He further submitted that, the representation given by the petitioner will be considered by the concerned authorities and appropriate orders will be passed in accordance with law.

5. Heard the learned counsel appearing on either side and we have



W.P.No.23253 of 2024

perused the documents filed along with the writ petition.

WEB COPY

6. Admittedly, the impugned eviction notice was issued, without hearing the petitioner by giving prior notice to him, which is contrary to the principles of natural justice. The primordial contention of the petitioner is that the gas agency is not situated in the Wall tax Road-Hood Wharf area, as mentioned in the order of the High Court in W.P.No.6609/2019, dated 12.09.2022.

7. Considering the facts and circumstances of the case and also taking into account the submission made by the learned State Government Pleader, we inclined to dispose of the writ petition with the following directions.

i) The impugned eviction notice dated 02.05.2024 issued by the third respondent to the petitioner shall be treated as show cause notice.

ii) The third respondent shall consider the letter dated 04.07.2024, which was already submitted by the petitioner, and pass appropriate orders in accordance with law, preferably, within a period of four weeks from the date of receipt of a copy of this order, after giving opportunity to the petitioner, if necessary.

Page 5 of 7



W.P.No.23253 of 2024

WEB COPY

8. With the above direction, this writ petition is disposed of. No costs.

Consequently, connected WMP No25425 of 2024 is closed.

(D.K.K., A.CJ.) (P.B.B.J.)
16.08.2024

Internet: Yes/No

Index : Yes/No

mst

To

1. The Secretary, State of Tamil Nadu,
Public Works Department,
Fort St. George, Chennai-600 009.
2. The Commissioner, Greater Corporation of Chennai
Ripon Buildings, Chennai-600 003.
3. The Executive Engineer, PWD, Water Resource Organisation,
Ararniyar Basin Division, Chepauk, Chennai-600 005.



WEB COPY



W.P.No.23253 of 2024

THE HON'BLE ACTING CHIEF JUSTICE
and
P.B.BALAJI, J.

mst

W.P.No.23253 of 2024
and W.M.P No.25425 of 2024

16.08.2024