WEB COPY



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 07.11.2024**

**CORAM :**

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN**

**Writ Petition No.32440 of 2024**
**and WMP.No.35234 of 2024**

G.Venkatesh Raju .... Petitioner

-Vs-

1.The Estate Officer/ Additional Commissioner
(Revenue & Finance)
Ripon Building, Chennai 600 003.

2.The Joint Commissioner
North Zone cum Estate Officer
Greater Chennai Corporation
Land and Estate Department
Ripon Building, Chennai 600 003.

3.The Revenue Officer Land & Estate
Ripon Building, Chennai 600 003. .. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents from in any manner locking and sealing the property situate at Door No.246, Wall Tax Road, Chennai-600 003, by forcibly evicting me from the subject property without complying the orders dated 13.08.2010 and 15.03.2024 passed by this Court in WP.No.13913 of 2010 and WP.No.6422 of 2024.



https://www.mhc.tn.gov.in/judis

WEB COPY



For Petitioner : Mr.R.Abdul Mubeen

For Respondents : Mr.S.Gopinathan
Standing Counsel
Chennai Corporation

**O R D E R**

The writ petition has been filed in the nature of a mandamus seeking a direction against the respondents from locking and sealing the property at Door No.246, Wall Tax Road, Chennai 600003, by forcibly evicting the petitioner from the said property. The petitioner claims that no action should be done by the respondents without complying with the order dated 13.08.2010 in W.P.No.13913 of 2010 and order dated 15.03.2024 in WP.No.6422 of 2024.

2.Even before proceeding further it must be made clear that the order dated 15.03.2024 in WP.No.6422 of 2024 was passed by a learned Single Judge deeply conscious of the order dated 13.08.2010 in WP.No.13913 of 2010. The operative portion of order in WP.No.13913 of 2010 had been extracted by the learned Single Judge and thereafter, an order had been passed in WP.No.6422 of 2024. Therefore, the order in WP.No.13913 of 2010 stood obliterated by the subsequent order in WP.No.6422 of 2044. The petitioner therefore cannot place any further reliance on the order in WP.No.13913 of 2010.



https://www.mhc.tn.gov.in/judis

WEB COPY



3.In the affidavit filed in support of the writ petition, the petitioner claims that owing to a Will executed by one Subbarathnamma, he had became the owner of the property at Door No.246, Wall Tax Road, Chennai 600003. At the time when the order was passed in WP.No.6422 of 2024, the learned Single Judge had opined that the said Subbarathnamma was still alive and therefore, the petitioner cannot place reliance on the Will executed by her as it could not take effect obviously as she was still alive and she had every right to write any other Will. But, today the situation has changed and it is informed by the learned counsel that the lady had died and it is also informed though documents are not filed in that regard, that the Will executed by her had been given to effect by grant of probate by the Court. This places an obligation of the petitioner to be directly answerable for any demand by the respondents for payment of dues and levies as is claimed in the show cause notice. They had raised a demand stating that the petitioner will have to pay a sum of Rs.30,90,710/- as lease amount.

4.The learned counsel for the petitioner has raised a dispute regarding the quantum. The petitioner himself had given a reply to the show cause notice. The issue now lies in the hands of the respondents to conduct an enquiry. Needless to point out while conducting an enquiry the respondents will have to follow the



https://www.mhc.tn.gov.in/judis

WEB COPY



principles of natural justice by giving due and fair opportunity to the petitioner to put forth his case. The learned counsel states that the petitioner cannot be termed as being in unlawful occupation and therefore cannot be asked to vacate from the place. That is also a stand he can take before the respondents during the course of enquiry. The learned counsel for the petitioner further stated that the demand for the amount is not substantiated and that there is a dispute regarding the quantum. That aspect can also be raised by the petitioner during the enquiry to be conducted by the respondents.

5.The issues are whether the petitioner is in unlawful occupation and whether the petitioner has to pay the amounts as demanded or any other amount. These are issues to be decided exclusively by the respondents. This Court cannot step into the shoes of the respondents and take a decision on whether the petitioner is in unlawful occupation or not and whether the petitioner should pay the amount as demanded by the respondents. Enquiry had not yet commenced. The petitioner has an obligation to participate in the enquiry. The only aspect is that the Court can direct the respondents to adhere to the principles of natural justice which would require giving full opportunity of raising objections, giving opportunity of filing written submissions and on every other aspect which the



https://www.mhc.tn.gov.in/judis

WEB COPY



petitioner feels he had to be heard on. I am confident that the respondents would adhere to these conditions. These were the conditions which had actually been stated by the learned Single Judge in WP.No.13913 of 2010 in order dated 13.8.2010. Now a show cause notice alone had been issued. Final order had not been passed only. The petitioner has to appears for the enquiry. The choice of course is with the petitioner, to appear or not to appear for the enquiry but it would only be prudent that he places a case before the respondents and impress upon them to pass an order on the basis of their notice and on the basis of his representation questioning the averments made in the said notice.

6.Stating as above, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

**07.11.2024**

Index : Yes/No
NCS : Yes/No
KP



https://www.mhc.tn.gov.in/judis

WEB COPY



**C.V.KARTHIKEYAN.,J**

KP

To

1.The Estate Officer/ Additional Commissioner
(Revenue & Finance)
Ripon Building, Chennai 600 003.

2.The Joint Commissioner
North Zone cum Estate Officer
Greater Chennai Corporation
Land and Estate Department
Ripon Building, Chennai 600 003.

3.The Revenue Officer Land & Estate
Ripon Building, Chennai 600 003.

**Writ Petition No.32440 of 2024**

**07.11.2024**



https://www.mhc.tn.gov.in/judis