



C.R.P.Nos.4411 of 2017 & etc., Batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	20.12.2023
Pronounced on	24.01.2024

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Civil Revision Petition Nos.4411, 4412, 4413, 4414, 4415, 4416, 4417, 4418, 4419, 4420, 4421, 4422, 4423, 4424, 4425, 4426, 4427, 4428, 4429, 4430, 4431, 4432, 4433, 4434, 4435, 4436, 4437, 4438, 4439, 4440, 4441, 4442, 4443, 4444, 4445, 4446, 4447, 4448, 4449, 4450, 4451

- 1.Usha ... Petitioner in C.R.P.No.4411 of 2017
- 2.Hasina ... Petitioner in C.R.P.No.4412 of 2017
- 3.Arokianathan ... Petitioner in C.R.P.No.4413 of 2017
- 4.Victoria ... Petitioner in C.R.P.No.4414 of 2017
- 5.Shanthayammal ... Petitioner in C.R.P.No.4415 of 2017
- 6.Jamila ... Petitioner in C.R.P.No.4416 of 2017
- 7.Arul Mary ... Petitioner in C.R.P.No.4417 of 2017
- 8.Mohan ... Petitioner in C.R.P.No.4418 of 2017
- 9.Joseph Babu ... Petitioner in C.R.P.No.4419 of 2017
- 10.H.Rani ... Petitioner in C.R.P.No.4420 of 2017
- 11.Suresh Kumar ... Petitioner in C.R.P.No.4421 of 2017
- 12.M.Vijayakumar ... Petitioner in C.R.P.No.4422 of 2017
- 13.A.Charles ... Petitioner in C.R.P.No.4423 of 2017
- 14.Anthony Nelson ... Petitioner in C.R.P.No.4424 of 2017



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15.Albert Elizabeth

... Petitioner in C.R.P.No.4425 of

2017

16.Violet

... Petitioner in C.R.P.No.4426 of 2017

17.Rani

... Petitioner in C.R.P.No.4427 of 2017

18.Margaret

... Petitioner in C.R.P.No.4428 of 2017

19.Anthony Samy

... Petitioner in C.R.P.No.4429 of 2017

20.Sasi Kumar

... Petitioner in C.R.P.No.4430 of 2017

21.Jeenath

... Petitioner in C.R.P.No.4431 of 2017

22.Kairunisha

... Petitioner in C.R.P.No.4432 of 2017

23.Sagayanathan

... Petitioner in C.R.P.No.4433 of 2017

24.Ramu

... Petitioner in C.R.P.No.4434 of 2017

25.Suseela

... Petitioner in C.R.P.No.4435 of 2017

26.Kaja Mohideen

... Petitioner in C.R.P.No.4436 of

2017

27.Mohideen

... Petitioner in C.R.P.No.4437 of 2017

28.Lakshmiammal

... Petitioner in C.R.P.No.4438 of

2017

29.Nathan

... Petitioner in C.R.P.No.4439 of 2017

30.Motchamarry

... Petitioner in C.R.P.No.4440 of 2017

31.John

... Petitioner in C.R.P.No.4441 of 2017

32.Rahamath Nisha

... Petitioner in C.R.P.No.4442 of 2017

33.Dass

... Petitioner in C.R.P.No.4443 of 2017

34.Kannan

... Petitioner in C.R.P.No.4444 of 2017

35.Arul Dass

... Petitioner in C.R.P.No.4445 of 2017

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36.Annammal

... Petitioner in C.R.P.No.4446 of 2017

37.Richard Nathan
2017

... Petitioner in C.R.P.No.4447 of

38.Deepa

... Petitioner in C.R.P.No.4448 of 2017

39.Raja

... Petitioner in C.R.P.No.4449 of 2017

40.Sivakumar

... Petitioner in C.R.P.No.4450 of 2017

41.Murali

... Petitioner in C.R.P.No.4451 of 2017

Vs.

1.Union of India,
Ministry of Defence,
Rep. by its Secretary,
New Delhi.

2.Brigadier/Commandant,
The Madras Regimental Centre,
Wellington, Nilgiris.

... Respondents in all C.R.Ps'

COMMON PRAYER: These Civil Revision Petitions have been filed under Article 227 of Constitution of India praying to set aside the judgment and decree passed in C.M.A.Nos.17, 18, 19, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60 and 61 of 2011, dated 30.10.2017 on the file of the District Judge and Appellate Authority of the Nilgiris, at Udthagamandalm and consequentially allow the appeal by setting aside the order of eviction passed by the second respondent.

For Petitioners
(in all C.R.Ps')

: Mr.M.L.Ramesh



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For Respondents : Mr.ARL.Sundaresh,
(in all C.R.Ps') Additional Solicitor General
Assisted by Venkataswamy Babu

COMMON ORDER

These Civil Revision Petitions are filed challenging the judgment and decree passed in C.M.A.Nos.17, 18, 19, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60 and 61 of 2011 dated 30.10.2017 passed by the District Judge and Appellate Authority of the Nilgiris at Udhagamandalam, dismissing the appeal and confirming the order passed by the second respondent, Brigadier/Commandant, The Madras Regimental Centre, Wellington, The Nilgiris.

2. The revision petitioners are the appellants in the appeal in C.M.A.No.17 of 2011 & Etc Batch. Learned counsel for the petitioners submitted that the revision petitioners are tenants under the Ratan Tata Officers' Holiday Home living from the date of their fore-fathers/ancestors as their employees. Thereafter, the property was taken over by the first respondent and vested with the Madras Regimental Centre, Willington, The



Nilgiris and the revision petitioners became tenants and was paying monthly rents. He further submitted that the earlier owner of Ratan Tata Officers' Holiday Home has collected the rents and issued the receipts. Therefore, the revision petitioners are neither an illegal occupants nor an encroachers.

3. Learned counsel for the petitioners would further submit that the second respondent viz., Brigadier/Commandant, the Madras Regimental Centre, Willington, The Nilgiris is not an Estate Officer appointed by the first respondent to initiate any proceedings under the Public Premises (Eviction of unauthorized occupants) Act, 1971 and there is no documents to prove that the second respondent herein is the Estate Officer.

4. Learned counsel for the petitioners further submitted that the guidelines framed by the Government was not followed by the second respondent, while passing the order of eviction and the show cause notice under Section 4 as contemplated under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 has to be issued to the petitioners before passing the order of eviction, however, the same has not been issued and only a legal notice had been issued by the advocate on behalf of the second



respondent and this cannot be construed as show cause notice under Section 4 of The Public Premises (Eviction of unauthorized Occupants) Act, 1971.

5. Learned counsel for the petitioners further submitted that without following the procedures contemplated under the aforesaid Act, the second respondent has conducted the enquiry and passed the order of eviction against the revision petitioners. The second respondent had not recorded the evidence and marked the documents produced by the revision petitioners and the eviction order passed by the second respondent i.e., Brigadier/Commandant is a non-speaking order. Moreover, the second respondent, who is a person in management of the premises has acted as an Estate Officer and he is not the Estate Officer appointed by the first respondent.

6. Learned counsel for the petitioners further submitted that the notice under Section 4 of the Act was not scrupulously followed by the second respondent before passing the order of eviction. The legal notice dated 30.03.2010 issued by the counsel for the second respondent in the nature of a notice under Section 4 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, in which it is stated that the petitioners are



encroachers but in fact, the revision petitioners were tenants under Ratan Tata Officers' Holiday Home and they were paying rent regularly to them and they are not the encroachers as stated in the notice.

7. Learned counsel for the petitioners further submitted that in the notice it has been stated that the property of the second respondent falls within the definition of “Public Premises” under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, as the property belongs to the Ministry of Defence and the revision petitioners are not entitled to continue their illegal occupation and they are liable for eviction.

8. Learned counsel for the petitioners drew the attention of this Court to the reply notice dated 07.04.2010, wherein, it has been mentioned that the revision petitioners' grand fathers were paying the monthly rent in respect of the respondent premises. It is further submitted that the revision petitioners had been paying the rent regularly till the year 2006 and the second respondent has also issued a receipt up to the year 2006 to the revision petitioners and even subsequent to the change in the management, the second respondent has received the rent till date and failed to issue the receipt to the



reasons best known to the second respondent. It is also stated in that notice that the premises in question are in existence for over 100 years and even over before, the same was gifted to the Minister of Defence by the Tata family and the revision petitioners and their predecessors are in possession and enjoyment for more than four years generations and been paying the rent regularly without any delay and the same was received by the Office-in-charge and for the same receipts were also issued to show that the revision petitioners are a statutory tenant under the second respondent and not encroachers as alleged in the show cause notice issued by the second respondent dated 30.03.2010. The revision petitioners are tenants in their possessions and they can be evicted only by due process of law. The Officer-in-charge through his letter dated 21.01.2010 confirmed and affirmed the aforesaid case.

9. It is also further stated in the reply notice sent by the revision petitioners that the second respondent has filed several Rent Control Original Petitions viz., R.C.O.P.No.82 of 1989 and R.C.O.P.Nos.84 to 86 of 1989 through their counsel M/s.Gonsolves & Gonsolves, which clearly shows that the revision petitioners are protected under the rent control act. Hence, it is



clear that the provisions of the Public Premises (Eviction of unauthorized occupants) Act, 1971 does not apply to this case and the revision petitioners are not liable to be evicted under the said Act and only by due process of law.

10. Learned counsel for the petitioners further submitted that thereafter, the notice of hearing under the Public Premises (Eviction of unauthorized occupants) Act, 1971 dated 16.11.2010 was issued to the revision petitioners to appear before the Brigadier/Commandant, the Madras Regimental Centre, Wellington, at 11.A.M on 06.12.2010 to show cause, with proper documents if any, why the revision petitioners should not be directed to be evicted from the encroached area. Thereafter, the order of eviction was passed under Section 5(i) of the Public Premises (Eviction of Unauthorized occupants), Act, 1971 dated 30.05.2011 issued to the revision petitioners directed them to vacate the premises and to remove all the illegal constructions erected by them on or before 30.06.2011, failing which they will be vacated from the land and the erection shall be removed at the cost to be fixed and recovered from them.

11. Learned counsel for the petitioners would further submit that before the eviction order dated 30.05.2011 passed by the second respondent, under



Section 5, no opportunity to give evidence or hearing was afforded to the revision petitioners and the procedures contemplated under Section 4 was not followed by the second respondent before passing the order of eviction under section 5 (i) of the Public Premises (Eviction of unauthorized occupants Act, 1971).

12. Learned counsel for the petitioners would further submit that the Ex.R1 and R2 was marked only at the appeal stage without filing proper applications. This Court at the time of admission granted interim order and the same was extended only till 04.04.2018.

13. Learned counsel for the petitioners relied on the judgment of the ***Hon'ble Supreme Court of India in the case of Dr.Subash H.Pophale Vs. Oriental Insurance Company limited, reported in AIR 2014 SC 1509,*** wherein it is held that

“Public Premises (Eviction of Unauthorised Occupants) Act (40 of 1971), S.2(e), S.2(g), S.4, S.7 – Bombay Rents, Hotel and Lodging House Rates (Control) Act (57 of 1947), S.15A- Public premises – Word 'belonging' to Central Government Company, Corporation etc., - Means owned or taken on lease by



Government – Does not mean managed by Central Government etc., - Protected tenant of premises subsequently taken over by Government – Cannot be evicted under Public Premises Act on ground that premises though no owned, was managed by Government before tenant became protected tenant. Interpretation of Statutes – Guidelines issued by Government to effectuate provisions of Act and prevent arbitrary use of power – can be considered as they do throw light on intention behind statute and according to this judgment, the petitioners are excluded from the purview of the Act, 1971, which is having the prospective effect and does not have any retrospective effect.”

14. Learned counsel for the petitioner has also relied on various other judgments and the same is reads as follows:

(i) The ***Hon'ble Supreme Court of India*** in the case of ***New India Assurance Co., Limited Vs. Nusli Neville Wadia & Another, reported in AIR 2008 Supreme Court 876***, wherein, it was held that

Public Premises (Eviction of Unauthorised Occupants) Act (40 of 1971) S.5 – Public Premises (Eviction of Unauthorized Occupants) Rules (1971), R-5 – Eviction – Notice issued to occupant – He not only entitled to show cause but also entitled to produce evidence in support of cause shown.

The estate officer with a view to determine the lis between the parties must record summary of the evidence. Summary of the evidence and the documents shall also form



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part of the record of the proceedings.

Procedure laid down for recording evidence is stated in the Rules. The Estate Officer being a creature of the statute must comply with the same. When a notice for eviction is issued, the occupant of the public premises would not only be entitled to show cause but would also be entitled to produce evidence in support of the cause shown.”

(ii) The Division Bench judgment of Jammu and Kashmir High Court in the case of Dr.Yash Paul Gupta Vs., Dr.S.S. Anand and Others, reported in AIR 1980 Jammu and Kashmir 16 has held as follows:

“8. The learned single Judge, it appears, was also conscious of this infirmity in the notice. This defect was, however, considered by him as totally inconsequential as according to him, the appellant was otherwise having full knowledge of the grounds upon which his eviction was proposed. In other words, the learned Judge was of the opinion, that were a person proceeded against under the Eviction Act was otherwise in the know of the grounds upon which his eviction was proposed, mere failure to mention those grounds in the notice served upon him under sub-sec (3) was immaterial, which did not render the notice invalid. We are unable to fall in line with the learned single Judge in taking this view of Sub-s (2). The provisions of this sub-section are mandatory and not merely directory in character, for the simple reason, that failure to make an effective reply to the notice for eviction as a consequence of absence or even vagueness of the grounds of



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eviction to be specified in the notice, may result in loss of the occupation of the premises. Furthermore, by construing clause (a) of Sub-s (2) in such a manner, we would be indeed reading the words "unless otherwise known to him" in it which in fact are not there. Reliance of the learned single Judge on a Special Bench decision of the Calcutta High Court in Standard Literature Co. Pvt. Ltd., Vs. Union of India, AIR 1968 Cal 1, in coming to the conclusion that are not mentioning the grounds in the notice was inconsequential, was in our opinion clearly misplaced. It appears that the learned single Judge merely notice the ground urged by the petitioner in support of the writ petition without noticing the finding recorded by the Court in respect thereof."

(iii) The Karnataka High Court in the case of M/s.Blaze and Central (P) Ltd., Vs Union of India and others, reported in AIR 1980 Karnataka 186, it was held that:

"The Estate Officer, as adjudicating authority, decided that he wanted the premises for his own use. The facts clearly prove that he was vitally interested in the cause. From the very start of proceedings, the impression gained was that the dice were loaded against the petitioner. No amount of evidence could remove that impression or establish affirmatively, that the end result of Estate Officer was a product of detachment and impartiality. The likelihood of bias animating the mind of Estate Officer was inevitable and its exercise was very much conscious and not unconscious."



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15. Learned counsel for the petitioners would further submit that the notice has to be given by the statutory authority i.e., Estate Officer before passing the order of eviction under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and in this case no notice in simpliciter under section 4 is issued to the revision petitioners by the second respondent, which is a non-speaking order and the order passed by the Appellate Court dated 30.10.2017 in C.M.A.No.17 of 2011, batch of cases, which is under challenge in the Civil Revision Petition is also a non speaking order. Hence, the same has to be set aside and prays that the present Civil Revision Petition may be allowed.

16. Per contra, Additional Solicitor General appearing for the respondents submitted that the procedure contemplated under section 4 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 was scrupulously followed by the second respondent before passing the eviction order under section 5(i) of the said Act dated 30.05.2011, ordering the eviction of revision petitioners from the premises owned by the second respondent.



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17. He further submitted that in the eviction order dated 30.05.2011, it was mentioned in paragraph 3 that the revision petitioners explanation on their unauthorized occupation and request for permitting them to continue on sympathetic grounds or on monthly agreement are not acceptable as the premises belong to the Government of India, Ministry of Defence and are in the charge of the Madras Regimental Centre, Willington, The Nilgiris. Hence, they were directed to vacate on or before 30.06.2011 and he is unable to substantiate the same by filing documentary proof to that effect.

18. He further drew the attention of this Court to the reply notice sent by the revision petitioners dated 07.04.2010 to the notice dated 30.03.2010 issued by the second respondent, the Madras Regimental Centre, Wellington, The Nilgiris, where in the paragraph 2, it is stated that the revision petitioners are the tenants in respect of residential premises of Ratan Tata Compound, St.Mary's Hill, Uthagamandalam and not the tenants under the second respondent.

19. Heard the learned counsel on either side and perused the materials



available on record.

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20. In the case on hand admittedly, the revision petitioners were the tenants in the premises of Ratan Tata Compound, St.Mary's Hill, Uthagamandalam, which was previously owned by Tata family and subsequently, the same was gifted to the second respondent by the Ratan Tata family by way of settlement deed dated 21.12.1922 bearing Doc.No.250 of 1923. The settlement deed was executed by the Trustees of Sir Ratan Tata in favour of the Ministry of Defence and the Chitta Extract of the property in question dated 27.08.1988, which are marked as Ex.R1 and R2 for consideration in the appeal filed by the revision petitioners.

21. The main contention of the respondents is that the revision petitioners are not the tenants under the second respondent, which was taken over by the Madras Regimental Centre, Wellington. Hence, they are unauthorized occupants and they are liable to be evicted as per the Public Premises (Eviction of Unauthorized Occupants) Act, 1971. The second respondent is not the Estate Officer under the Act and in order to evict the revision petitioners the procedures contemplated in the above said Act i.e.,



issuing Section 4 notice stipulated in the Act, before passing the order of eviction under Section 5(i) of the Said Act was not followed in the instant case. It is pertinent to extract the provision of Section 4 and 5 of the Act:

“4. Issue of notice to show cause against order of eviction. - (1) *If the estate officer has information that any persons are in unauthorised occupation of any public premises and that they should be evicted, the estate officer shall issue, in the manner hereinafter provided, a notice in writing within seven working days from the date of receipt of the information regarding the unauthorized occupation calling upon all persons concerned to show cause why an order of eviction should not be made.”*

“5. Eviction of unauthorised occupants. - (1) *If, after considering the cause, if any, shown by any person in pursuance of a notice under section 4 and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard, the estate officer is satisfied that the public premises are in unauthorised occupation, the estate officer may make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated, on such date as may be specified in the order, by all persons who may be in occupation there of or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public*



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premises.

(2) If any person refuses or fails to comply with the order of eviction under sub-section (1), the estate officer or any other officer duly authorised by the estate officer in this behalf may evict, that person from, and take possession of, the public premises and may, for that purpose, use such force as may be necessary.”

22. It can be seen from the notice dated 30.03.2010, which was sent by the counsel on behalf of the second respondent and not by the Estate officer and it is not a notice under Section 4 to be issued by the Estate Officer as contemplated under Public Premises (Eviction of Unauthorized Occupants) Act, 1971. According to Section 4, which has been extracted supra, the notice has to be given in writing within 7 working days from the receipt of information regarding the unauthorized occupation, calling upon the persons concerned to show cause why the order of eviction should not be made. In the present case on hand, instead of issuing the Section 4 notice, the advocate on behalf of the second respondent issued the notice dated 30.03.2010, wherein, it is mentioned that the second respondent under took a survey of the entire property recently (about two months ago) as he suspected that there may be encroachments of the



property in the periphery, especially in the St.Mary's Hill Junction area and on survey, it has been established that the revision petitioners have encroached into the land described in the schedule hereunder. As per the above Section 4 of the said Act, the notice in writing has to be issued regarding the unauthorized occupation, but in this case, it was not done and the same is also evident on perusal of the records.

23. It is also one of the contentions of the revision petitioners that the Brigadier/Commandant is not an Estate Officer and there is no document to prove that he is the Estate Officer contemplated under the Act to take action for evicting the revision petitioners. In this regard, this Court has directed the learned Additional Solicitor General appearing for the respondents to produce the copy of the order or a circular or a memorandum which states that the Brigadier/Commandant of the Madras Regimental Centre is the Estate Officer, appointed under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, however, he is unable to produce the same as directed by this Court.



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24. It is also pertinent to note that there were rent control proceedings and applications have been filed by the second respondent against the revision petitioners, which is evident from the reply notice given by the counsel for the revision petitioners and the numbers of the Rent Control Original Petition's were also mentioned in the said notice, which was filed way back in the year 1989. Hence, this Court further directed the learned Addition Solicitor General to furnish the documents pertaining to the Rent Control proceedings initiated by the second respondent against the revision petitioners but he is also unable to produce the same. Since the proceedings were of the year 1989 i.e., more than 3 decades back and the records are not traceable in the second respondent office.

25. The revision petitioners were lawful tenants under the Tata's family, since the property was gifted to the Madras Regimental Centre vide settlement deed dated 21.12.1922 by which, the Madras Regimental Centre has become the owner of the property, which does not mean that the revision petitioners are encroachers but they may be in unauthorized



occupation. The second respondent is not a Estate Officer as defined in Section 2(b) of the Public Premises (Eviction of unauthorized Occupants) Act, 1971 and the same is crystal clear and evident from the eviction order dated 30.05.2011, which has been sent only by the Brigadier/Commandant, The Madras Regimental Centre and no where it is mentioned him as the Estate Officer.

26. The Section 4 notice is also not issued by the Estate Officer as contemplated under the Act and it is only a legal notice dated 30.03.2010 issued by the counsel. Hence, the procedures are not followed by the second respondent and the same is a clear violation of the provisions of the Act. The section 4 notice has to be given before passing the order of eviction under section 5(i) of the Act, but the same was not followed by the second respondent. Hence, on this ground, the order passed by the second respondent is unsustainable and the same has to be set aside by this Court. On perusal of the records, it is also evident that the respondents without holding any proper enquiry and giving any opportunity to the revision petitioners passed the order of eviction without assigning any reasons. In the judgment passed by the Appellate



Court also it has been mentioned that the order of eviction passed by the second respondent under Section 5(i) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 is only after the explanation given by the revision petitioners to the show cause notice issued by the Estate Officer under section 4 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, which is not correct for the reason that it was not a notice issued under Section 4 as contemplated under Act and it is only legal notice issued by the advocate on behalf of the second respondent and not by the Estate Officer. There is no document to substantiate that the revision petitioners/appellants requested permission to continue the occupation of the premises on sympathetic grounds or on rental basis as stated in the eviction order. Hence, the same cannot be countenanced by this Court.

27. Since, the procedure contemplated in the Act was not followed by the respondents and the Appellate Court has erred in holding that the Section 4 notice was issued by the second respondent, before the eviction order passed under Section 5(i) of the Act and moreover, it is stated that the considering the explanation of the appellants the eviction order



passed, however, in the case on hand, no proper enquiry, no opportunity of adducing the evidence has been given to the revision petitioners and the explanation of the revision petitioner was also not considered and no documents were also marked. This apart, the Appellant Court has also observed that the appellants have appeared for enquiry before the Brigadier/Commandant and requested to continue in the premises on sympathetic grounds or on rental arrangements, however, no document has been filed before the Appellate Court to substantiate the same. Hence, on this ground also the order of the Appellate Court is unsustainable and the same has to be set aside by this Court.

28. The Appellate Court in simpliciter has only reproduced the contentions made by the learned counsel on either side and there is no justifiable reasons or proper reason stated in the order passed by the Appellate Court on 30.10.2017, which is under challenge in the Civil Revision Petitions.

29. The revision petitioners were the tenants under the TATA family and after the settlement deed of the year 1922 they became unauthorized



occupants since the Madras Regimental Centre, Wellington, the Nilgiris by virtue of the above settlement deed have become the owner of the property and they did not recognize them as tenants under the Madras Regimental Centre only from the year 1989 when rent control proceedings were initiated against the revision petitioners and they were paying the rents till 2006 but, no receipts were issued to them.

30. The revision petitioners are not encroachers as stated in the notice dated 30.03.2010 issued by the counsel for the second respondent (MRC), since they were tenants under the erstwhile owners of the property namely the TATAs' and now the Madras Regimental Centre is the owner of the property, they cannot be termed as encroachers. The initiation of the Rent Control Proceedings in the year 1989 clearly proves that the petitioners were the tenants and the second respondent has accepted them as tenants that is the reason they have initiated action under the Rent Control Act to evict the petitioners from the property. If they are encroachers then, the second respondent would have initiated the action to evict under the Land Encroachment Act or any other law in force as on that date.



31. The judgment and decree dated 30.10.2017 passed by the Appellate

Court has to be set aside for the following reasons:

1) The Section 4 notice was not issued to the petitioners as contemplated under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

2) The condition in Section 4 were not complied by the respondents.

3) The Section 4 notice was not issued by the Estate Officer of the second respondent and it is only a legal notice that was issued by the Advocate/counsel on behalf of the second respondent.

4) The eviction order dated 30.05.2011 was signed by the Brigadier/Commandant of the Madras Regimental Centre, Wellington, The Nilgiris and not signed by the Estate Officers as contemplated under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

5) There is no document filed by the second respondent either before the Appellate Court nor before this Court to prove that the Brigadier/Commandant is the Estate Officer under the Act

6) No opportunity to produce documents and personal hearing was given to the revision petitioners.

7) The action initiated by the second respondent not an accordance



with the procedures contemplated under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and the second respondent being the statutory authority (Ministry of Defence) ought to have followed it strictly.

8) The Principles of Natural Justice were not followed and the action initiated by the second respondent is in clear violation of the same.

9) No documents to prove that the revision petitioners sought permission to continue their stay in the said premises as stated in the eviction order passed by the second respondent under Section 5 (i) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 dated 30.05.2011 and **when this Court directed the Additional Solicitor General of India to produce the same atleast for some of the petitioners, he replied that the same is not traceable in the office of the second respondent.**

10) The Appellate Court has erred in holding that sufficient opportunity and the request of the petitioners all were well considered and after that only, the eviction order was passed by the second respondent, when there is not even a single document filed to substantiate the same before the Appellate Court.

32. The Madras Regimental Centre (MRC), Wellington, The



Nilgiris is a Training Centre for the Indian Army, a unit under the Ministry of Defence and they may be in need of the property for their use and for security reasons.

33. This Court is well aware of the importance of the Madras Regimental Centre (MRC), Wellington, which is one of the oldest and prestigious Training Centre in the Country for the army officers.

34. The second respondent has every right to initiate action to evict the petitioners since the land now is owned by the Ministry of Defence and its requirement is paramount but by following due process of law.

35. For the foregoing reasons, this Court is of the considered view that the judgment and decree passed in C.M.A.No.17 of 2011 dated 30.10.2017 (Batch cases) on the file of District Judge and a Appellate Authority, The Nilgiris at Uthagamandalam and the eviction order passed by the second respondent are liable to be set aside and the same is hereby set aside.



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36. In the result, the Civil Revision Petitions are allowed. However by taking into consideration the importance and functions of the Madras Regimental Centre (MRC), Wellington, The Nilgiris, it is open to the second respondent to proceed against the petitioners by initiating fresh proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and the same may be completed within a period of six months from the date of receipt of a copy of this order. No costs.

24.01.2024

vm

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

To:

- 1.Union of India,
Ministry of Defence,
Rep. by its Secretary,
New Delhi.
- 2.Brigadier/Commandant,
The Madras Regimental Centre,
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