

(2001) 06 MAD CK 0001

In the Madras High Court

Case No : Writ Petition No. 10838 of 2001 and W.M.P. No.15692 of 2001

Victory Educational Trust

APPELLANT

Vs

The Principal commissioner and Commissioner of Land
Reforms

RESPONDENT

Date of Decision : 08-06-2001

Acts Referred:

Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1976 — Section 4 , 5, 6

Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Rules, 1978 — Rule 6

Citation : (2001) 06 MAD CK 0001

Hon'ble Judges : F.M. Ibrahim Kalifulla, J

Bench : Single Bench

Advocate : K. Subramanian, for the Appellant; R. Muthukumaraswamy, for G. Govindarajan, for R6 and R. Lakshminarayanan, Government Advocate for Respondents 1 to 5, for the Respondent

Final Decision : Allowed

Judgement

F.M. Ibrahim Kalifulla, J.—Learned Government Advocate takes notice on behalf of the Respondents 1 to 5 and the main Writ Petition

itself is taken up for disposal.

2. Petitioner seeks for the issue of Writ of Certiorarified Mandamus to quash the order of eviction dated 25.5.2001 of the fifth Respondent and

further direct the Respondents to follow the directions issued by this Court in its order dated 16.5.2001 made in W.P.No.1736 of 2001 by issuing

a show cause notice and other consequential notices as required under the Tamil Nadu Act 1 of 1976.

3. Since very many details about the manner in which the Petitioner came to be in occupation of the premises in question have been elaborately

dealt with by this Court in the earlier order in W.P. No. 1736 of 2001 dated 16.5.2001 (since reported in this issue at page 698), do not propose

to deal with the same in extenso. The fact remains that as per the findings of this Court in the earlier order dated 16.5.2001, the Petitioner is in

unauthorized occupation of the premises in question. Therefore the only other requirement that has to be considered now is as to whether the order

impugned in this writ petition can be stated to be strictly in accordance with the directions of this Court made in the order dated 16.5.2001.

This Court after holding that the Petitioner is liable to be evicted as an illegal occupant of the premises in question, directed the authorities to

scrupulously follow the provisions of the Tamil Nadu Land Encroachment Act, 1905 or the Tamil Nadu Public Premises (Eviction of Unauthorised

Occupants) Act, 1975, whichever is applicable before carrying out the process of eviction. By the impugned notice dated 25.5.2001, which is

stated to be in Form-C, as prescribed under Rule 6 of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Rules, 1978, it

directed the Petitioner to remove or cause to be removed the property of the description mentioned therein remaining on the premises, within

fourteen days from the date of service of the notice, failing which it is stated that action would be taken to remove and dispose it of, in public

auction. A reading of Section 4,5 and 6 of the Tamil Nadu Public Premises Act, 1975 and Rule 6 of the Tamil Nadu Public Premises (Eviction of

Unauthorised Occupants) Rules, 1978 read along with Form C, it is clear that before the issuance of the Form C, there should have been a show

cause notice u/s 4 of the said Act, in Form A and thereafter an order of eviction based on specific finding to the effect that the concerned person is

in authorised (sic) occupation should have been made, and only thereafter 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 for that purpose, use such force as may be

necessary. It is only thereafter, if any property is kept in the public premises by the unauthorised occupants, order can be made for the removal of

the same or for the disposal of the same in the manner set out in Section 6 of the Tamil Nadu Public Premises Act, 1975 by issuing Form C notice

as per Rule 6. Therefore, on a perusal of the impugned notice issued in the case on hand, when it is not in dispute that no other notices or the order

of eviction as contemplated under Sections 4 and 5 of the Act, have been passed, it would be highly premature for the authority concerned to have issued the present impugned notice under Form C. Therefore, there is no other go except to set aside the said impugned notice. Since the Petitioner is admittedly in unauthorised occupation of the premises in question, the competent authorities would be well within their jurisdiction to resort to the eviction against the Petitioner under the provisions of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975 and the Rules made thereunder. The only requirement is that while resorting to such eviction, the procedure contemplated under the provisions of the Act and the Rules made thereunder are to be scrupulously followed as provided therein.

4. Therefore, while allowing this writ petition and setting aside the order impugned herein, I feel it would be justified to direct the authorities concerned to issue the proper notice by providing the required time limit as provided u/s 4 of the Tamil Nadu Public Premises Act, 1975 and thereafter to pass an order of eviction as provided u/s 5 of the Tamil Nadu Public Premises Act, 1975 and after completing the above said formalities within the period stipulated, resort to necessary process of eviction. Since the Petitioner is admittedly in unauthorised occupation of the premises in question, the authorities shall carry out the process of eviction expeditiously, in as much as the original owner of the property has been deprived of the enjoyment of his lands for no fault of his, for nearly a decade. Writ Petition is allowed with the above directions. Consequently, no order is necessary in W.M.P. No. 15692 of 2001.