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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.03.2011

CORAM

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

W.P. (MD) .No.3842 of 2011

and

M.P. (MD) .No.1 of 2011

R.Guruchandran

...Petitioner

Vs

The Chief Work Shop Manager,
Ponmalai, Trichy

...Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the impugned memorandum dated 01.03.2011 issued by the respondent in CC/1/46/complaints and quash the same.

For Petitioner : Mr.S.Sethuraman

For Respondent : Mr.S.Manokar

O R D E R

The petitioner aggrieved against the impugned order directing him to be evicted from the quarters on the ground that apart from the original allotment, he has also occupied the adjoining house and therefore, his original allotment is being cancelled under the impugned order and he would also be asked to pay the penal rent for the unauthorised occupation of the property, the Writ Petition is preferred.

2. The main contention of the petitioner is that no notice is issued prior to the impugned order came to be passed and he would also contend that he never occupies any other premises other than the quarters allotted to him.

3. When the matter was posted for admission, Mr.S.Manohar, learned Standing Counsel for Southern Railways took notice and brought to the notice that the petitioner has already preferred an appeal dated 07.03.2011 against the impugned order and the said appeal is under consideration of the appellate authority. Therefore, since the appeal has already been filed, he would contend that there is no necessity for the Writ Petition.



Heard both sides.

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4. The petitioner himself admits in the Writ Petition that he has already preferred an appeal before the authorities concerned. Since his possession is disturbed and also he is directed to pay the penal rate, he has come up with the present Writ Petition.

5. Taking into consideration that the petitioner has already moved the alternative appeal forum, the Writ Petition, at this juncture, is premature. The petitioner would only contend that there may be a direction to the first respondent to dispose of the very appeal itself and till such time, the possession shall not be disturbed by the respondents. To this, the learned counsel for the respondents have no objection.

6. In view of the above, there shall be a direction to the appellate authority, namely, the first respondent to dispose of the appeal filed by the petitioner on 07.03.2011 within a period of four weeks from the date of receipt of a copy of this order. It is made clear that till the disposal of the appeal, the petitioner's possession will not be disturbed or coercive steps would be taken for collection of penal rate, as alleged by the respondents.

With the above observations, this Writ Petition is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Deputy Registrar (Accounts)

/True Copy/

Assistant Registrar

To

The Chief Work Shop Manager,
Ponmalai,
Trichy

+One CC to Mr.S.Manohar, Advocate, SR.No.12299

ssm