

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 01.08.2018
CORAM
THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. No. 18375 of 2018
&
W.M.P. No. 21683 of 2018

Mrs.Ravammal

..Petitioner

Vs.

1. The District Collector,
Tiruvallur District
Collectorate Complex,
Tiruvallur - 602 001.
2. The Assistant Director (Panchayath),
District Collector's Office,
Tiruvallur District.
3. The Block Development Officer
(Panchayath),
Poondi Panchayath Union,
Poondi Post, Tiruvallur District.
4. The Block Development officer,
(Block Panchayath),
Poondi Panchayath Union,
Poondi Post, Tiruvallur District.
5. The Executive Officer and Special
Officer,
Nandhimangalam Village,
Uthukottai Taluk, Thiruvallur District.

6. Mr.K. Ravichandran @ Ravishankar

7. Mrs. Mohana Ravichandran

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing respondents 1 to 5 to demolish the construction newly made in Survey No. 109/19, Old S.No.63, measuring an extent of 109 sq.m at Nandhimangalam Village, Uthukottai Taluk, Tiruvallur District.

For Petitioner :: Mr.M.L. Ramesh
For Respondents:: Mr.A.N. Thambidurai,
Special Govt. Pleader for
R1 to R5
Mr.A. Palaniappan for R6 & R7

O R D E R

(Order of the Court was made by N.KIRUBAKARAN, J.)

The petitioner has come before this Court seeking issue of a Writ of a Mandamus directing respondents 1 to 5 to demolish the construction newly made in S.NO. 109/19, Old Survey No. 63 measuring an extent of 109 sq.m. put up by the 6th and 7th respondent in Nandhimangalam Village on the ground that the 6th and 7th respondents are not entitled to have a Green House as they already possess a house.

2. Mr.M.L. Ramesh, learned counsel for the petitioner very vehemently argued that the 6th and 7th respondents are already in possession of a property, wherein they had constructed a house, illegally without any approved plan, which compelled the petitioner to approach this Court by filing W.P. NO. 25197/2017 and she obtained an order of demolition on 03.01.2018. Pursuant to that, the illegal construction made by the 6th and 7th respondents had been demolished. However, the 6th and 7th respondents are trying to rebuild the same under the scheme called Solar Powered Green house Scheme 2017-2018. Therefore, the petitioner is before this Court stating that 6th and 7th respondents are not entitled to any benefit under the said scheme.

3. Mr.A.N. Thambidurai, learned Special Government Pleader would submit that 6th and 7th respondents are entitled to the benefit under the said scheme and they have already availed the benefit and they are making the construction.

4.Mr.A. Palaniappan, learned counsel for 6th and 7th respondents would submit that in order to wreck vengeance and also with mala fide intentioni, at the instance of the petitioner's son-in-law, the petitioner has come before this Court only to see that the private respondents' house is demolished and is not rebuilt.

5. Heard the parties and perused the records.

6. The only question to be decided is whether the private respondents are entitled to the benefit under the Solar Powered Green House Scheme 2017-2018. Though the petitioner would submit that as per Clause 5(iv) the beneficiary should not have any pucca concrete house in the village or anywhere else whereas the private respondents are having a house, which has been

demolished as it was an legal construction, however, clause 2 (vii) of the said schem reads as follows:

"The Green Houses shall be constructed in site (replacing his/her existing dwelling structure) or on the land owned by the beneficiary elsewhere in the Village Panchayat. No land acquisition is envisaged under this scheme. People with pattas for their house sites are only eligible under this scheme."

A perusal of the aforesaid clause would reveal that the beneficiaries could either construct a new one or replace the existing demolished structure. Admittedly, the private respondents are having a house, which had been partially demolished pursuant to the orders obtained by the petitioner in W.P. No. 25197/2017 contending that it had been put up without any approved plan. The patta issued on 26.02.1993 to the father of the 6th respondent would show that he had been issued with patta to an extent of 109 sq.m. comprised in Old S.No. 69/3 and New No. 109/19 at Nandimangalam Village, Pondhavakkam Post, Uthukottai Taluk, Thiruvallur District. In the said property only, partially demolished structure stands. Therefore, as per clause 2(vii) of the scheme, the private respondents are entitled to the benefit and it cannot be prevented by the petitioner. Therefore, this Court holds that the private respondents are entitled to the benefit under the scheme as they are qualified under the scheme. The Government has also rightly granted the benefit to the private respondents.

7. It seems with mala fide motive only, the petition has been filed not satisfied with the demolition already made at the instance of the petitioner. Usually, in villages, no pucca building would be put up. Moreover, the private respondents are having only a small site to an extent of 700 sq.ft and they are poor agricultural coolies and they are entitled to get the benefit under the scheme. The writ petition is liable to be dismissed and it is accordingly dismissed. It is made clear that the private respondents shall put up construction only in their patta land. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

nv

TO

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Officer,
Nandhimangalam Village,
Uthukottai Taluk,
Thiruvallur District.

+1cc to Mr.A.Palaniappan, Advocate SR.No.52645

+1cc to Mr.M.L.Ramesh, Advocate SR.No.52558

W.P. No. 18375 of 2018

AD(CO)
GN(14/08/2018)

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