

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.43536 of 2006
& WPMP.No.1 of 2006 &
& M.P.No.1 of 2011

Dr.K.V.Chandrasekaran

...Petitioner

-Vs-

1. The Principal,
Chengleput Medical College,
Chengleput.

2.The Director of Medical Education,
Kilpauk, Chennai 600 010.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the respondents in connection with the impugned order passed by the first respondent in Na.Ka.No.9926/General/1/05, dated 19.10.2006 and quash the same.

For Petitioner : Mr.M.Muthappan

For Respondents-1 & 2: Mr.K.Ravikumar, AGP

O R D E R

This writ petition has been filed seeking to cancel the allotment order, allotting the Government quarters issued to the petitioner in the Chenglepet Medical College and Hospital.

2. Petitioner entered as a Civil Assistant Surgeon through TNPSC in the year 1984 and subsequently promoted as Reader in Orthopaedics in the year 2004 and was posted to Chenglepet Medical College and Hospital. As per the statutory provisions under Rule 15(5) of the Fundamental Rules and with reference to the Government Order in G.O.Ms.No.18/16/P&D, dated 10.09.1982, petitioner was allotted a house in the college premises for his occupation. As per the routine nature ever since the date of allotment, an amount was deducted from his

salary towards the rent and the house rent allowances were stopped to the petitioner. According to the petitioner, the said house allotted to him was not in stable condition and hence, he has challenged the very allotment order itself in this writ petition.

3. Learned counsel appearing for the petitioner would submit that the petitioner had been suffering from heart alignment and moreover, the government quarters allotted to the petitioner was not at all in good condition and it was without doors, damaged windows, without electricity and water connection and hence, the petitioner was not in a position to occupy the same. The petitioner had also made a representation before the authorities on 01.11.2006 seeking to cancel his allotment of quarters by enclosing photographs showing the condition of the quarters.

4. Learned Additional Government Pleader appearing for the respondents would submit that there had been some minor repair works in the quarters allotted to the petitioner at the time of allotment. The petitioner would have done the same and had occupied the premises and without doing so, the petitioner had merely filed the present writ petition which is unwarranted.

5. It is seen that this writ petition was filed in the year 2006. At the time of ordering notice of motion, this Court had granted interim stay of recovery of the amount on 10.11.2006. The petitioner had been enjoying the benefit of the interim order till date.

6. The sum and substance of the counter affidavit filed by the second respondent particularly in paragraphs No.2,3, 4 and 5 which reads thus:

" It is submitted that the petitioner was allotted the Government quarters after making minor repair by the P.W.D. authorities. Through the order the Second Respondent made proceeding No.9926/G1/2006, dated 19.10.2006, the above quarters was allotted to him. At the time of allotment, the house is in good living condition. But the petitioner failed to occupy the above said quarters after receiving the allotment order from this office. After the lapse considerable period of time, the petitioner has requested the second respondent to handover key for the said house. Due to non-occupation of the said house by the petitioner, antisocial elements damaged the door and windows.

3.It is submitted that the petitioner was provided the house as per the Government letter No.2457/H, dated 17.12.2002. Most of the doctors working in this Medical College are coming from Chennai. In order to render better service to the public who are attending the hospital for taking Medical Treatment, the presence of petitioner in the P.W.D. Quarters situated in the College Campus is considered as an essential one. Based on the instructions of the Government and Fundamental Rules, he was allotted the said house. But he failed to take possession of the said house immediately. But recovery of rent from the petitioner towards allotment of Quarters is a Compulsory one even if the petitioner was not occupying the Quarters to prevent loss to the Government. As soon as the petitioner receives the order for allotment of house from this office, he should have occupied the said house immediately, but he refused to received the key and occupy the said house. Hence, recovery of quarters rent from his salary is a legal and routine in nature.

4. It is submitted that consequent on the allotment of house to the petitioner, he should occupy the said house without any hesitation. But after one month, he has requested this office to handover the key for the above said quarters. At the time of issuing the order, the house is in good condition. It is failure on the part of the petitioner to occupy the said house in time and because of his delay in occupying the allotted house some anti-social elements stolen the door, windows and caused severe damages. However, necessary steps has already been taken by the respondents to rectify the damages duly informing the P.W.D.. Authorities to carry out the repairs. Without occupation of the said house by the petitioner, it could not be possible to keep the house in good condition.

5. It is submitted that according to the Statutory provision made in Rule 15(5) of the Fundamental rules and the orders issued in G.O.Ms.No.1816/PWD, dated 10.09.1982, the incumbent of the posts for whose benefits the house is construed will be held responsible for the payment of prescribed rent during the tenure of his service. If the incumbent failed to occupy the allotted Quarters, rent may be collect from him, at the rate he would pay had to be occupied the quarters as per the orders issued, in Government Order No.1816/PWD, dated 10.09.1982."

7. From the above it is seen that the petitioner had miserably failed to occupy the quarters on his own. The petitioner without occupying the quarters, after obtaining interim order of recovery had managed more than a decade by simply keeping the premises in his name, which in the opinion of this Court is unlawful.

8. I do not find any merit in the writ petition and hence, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

smi
To

1. The Principal, (Incharge)
Chengleput Medical College,
Chengleput.
2. The Director of Medical Education,
Kilpauk, Chennai 600 010.

+1cc to the Government Pleader SR.37963

W.P.No.43536 of 2006

kj[co]
srg 25/07/2018