

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.01.2019

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P. RAJAMANICKAM

WA.Nos.629 of 2017
and
C.M.P.No.8775 of 2017

D.Vijayalakshmi

...Appellant

Vs

- 1.The Registrar General,
Madras High Court,
Chennai-600 104.
- 2.The Registrar(Vigilance)
Madras High Court,
Chennai-600 104.
- 3.The Secretary,
Law Department,
Secretariat, Fort St.George,
Chennai-600 009.
- 4.The Chairman,
Bar Council of Tamil nadu,
Madras High Court Buildings,
NSC Bose Road, Parry's, Chennai-600 104.
- 5.The Chairman,
Tamil nadu Electricity Board,
800, NPKRR Maaligai,
Anna Salai, Chennai-600 002.
- 6.The Secretary,
Municipal Administration and Water Supply Department,
Secretariat, Fort St.George,
Chennai-300 009.

7.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.

...Respondents

PRAYER:- Writ Appeal filed under clause 15 of the Letter Patents praying to set aside the order dated 02.06.2016 in W.P.No.20132 of 2015 and to allow the above appeal

Prayer in W.P.No.20132 of 2015 : - Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 1 to 7 to consider and to take necessary action on petitioner's representation dated 24.3.15 and 22.4.15 on the persons and officers who involved and helped the illegal Eviction and Demolition of property

For Appellants : Mr.D.Vijayalakshmi,
Party in Person

For Respondents : Mr.E.Manoharan
Additional Government Pleader
for R3, R6 & R7
Mr.S.K.Raameshuwar for R5

JUDGMENT

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.,]

The petitioner / Party In Person in W.P.No.20132 of 2012 is the appellant. The writ petitioner / Party In Person filed the said writ petition praying for issuance of Writ of Mandamus directing the respondents 1 to 7 to consider and take necessary action on her representations dated 24.03.2015 and 22.04.2015 action against the persons and officers who have involved in the illegal eviction and demolition of the property. The writ petition after contest came to be dismissed on 02.06.2016 and though the appeal came to be filed on 11.08.2016, it was numbered only on 07.06.2017.

2. When the appeal was listed for hearing on 28.06.2017, before the Division Bench consisting of the Hon'ble Mr.Justice Nooty Ram Mohan Rao and Hon'ble Mr.Justice Abdul Quddhose, the petitioner / party in person started making submissions in Tamil and therefore, a request was made to the petitioner / party in person either to argue the matter in English or to engage a Counsel. The petitioner / party in person undertake to engage a lawyer and thereafter, the matter has been adjourned thrice and

it appears that the petitioner / party in person is not inclined to engage lawyer and started making submission in Tamil before this Court.

3. Facts leading to the present litigation have been narrated in detail and in extenso in the impugned order dated 02.06.2016 passed in W.P.No.20132 of 2012 and therefore, it is unnecessary to restate the entire facts except to narrate the relevant facts for the purpose of disposal of this writ appeal.

4. According to the appellant / writ petitioner / party in person, she is the owner of the property in question by virtue of Sale Deed dated 23.11.2000 executed by her brother viz., Gopalsamy. The materials placed would also indicate that Mrs.Nagammal and Mr.Raghunathan, who are the legal heirs of the said Mr.Gopalsamy, filed Execution Application No.67 of 2010 in E.P.No.16 of 2004 in R.C.O.P.No.98 of 2013 on the file of the 1st Additional District Munsif, Coimbatore to break open the closed door of the premises with police protection and the learned Additional District Munsif had appointed Mr.Vivekanandan as Advocate Commissioner to hand over the possession of the property to them.

5. Accordingly, the Advocate Commissioner visited the property and handed over the possession of the premises in favour of Mrs.Nagammal and Mr.Ragunathan and also submitted his report indicating the factum of handing over possession of the property on 13.03.2010 and in the report, it was also indicated by the Advocate Commissioner that the premises in question is in dilapidated condition. Thereafter, the building was demolished and the averment that the said building was demolished with the aid of the appellant has also been denied by the learned Special Government Pleader who appeared on behalf of the official respondents in the said writ petition. According to the report of the Advocate Commissioner, premises was found closed when he visited the property and thereafter, the possession was handed over in favour of Mrs.Nagammal and Mr.Ragunathan and therefore, it cannot be said that the appellant / party in person continue to remain in possession of the property which is the subject matter of E.A.No.67 of 2010.

6. The learned Judge, after taking note of the facts especially the report of the above learned Advocate Commissioner, found that the petitioner who was continued to be in possession of the property in question had filed the said writ petition seeking action against the alleged offenders in the light of her representations dated 24.03.2015 and 22.04.2015. The learned Judge has also taken note of the counter affidavit filed on behalf of the respondents 1 and 2, especially the closure of similar complaint made by the

appellant / party in person in the year 2012 and 2014, after obtaining a report from learned Principal District Judge, Coimbatore. The learned Judge further found that in the compliant sent by the petitioner during the year 2012-2014, she had some wild allegations against the judicial officers and the advocate and admittedly, the allegations were found to be false and untrue and the said material particulars has also been suppressed by the appellant / party in person in the writ petition.

7. The learned Judge, taking into consideration all the relevant facts and material particulars and also the conduct of the appellant / party in person in suppressing the relevant facts, found that the prayer sought for by the writ petitioner / party in person to conduct the enquiry on the basis of the representations dated 24.03.2015 and 22.04.2015 cannot be ordered and if at all such kind of direction is issued, it will only compel the respondents to do certain acts, which they are not bound to do. The learned Judge has also recorded the fact that the grievance expressed by the petitioner / party in person in the form of representations dated 24.03.2015 and 22.04.2015 respectively had already been considered by the official respondents and she has also given a suitable reply and therefore, further direction need not been issued and citing the said reasons had dismissed the writ petition, vide impugned order dated 02.06.2016 and aggrieved by the same, the present writ appeal is filed.

8. The appellant / writ petitioner / party in person would submit that the learned Single Judge had wrongly refused to exercise the jurisdiction and thereby her substantial rights had been affected and also sought to attack the report of the Advocate Commissioner and claims that she continues to remain in possession of the property.

9. In the considered opinion of this Court, the grounds urged by the appellant / writ petitioner / party in person in this writ appeal lacks merit and substance. Admittedly, the order of execution has been put into effect. The appellant / party in person on an earlier occasion had filed CRP.NPD.No.4218 of 2008 to call for the records relating to the decreetal order dated 28.07.2008 in E.A.No.156/2006 in E.P.No.16/2004 on the file of the 1st Additional District Munsif, Coimbatore and set aside the same and while disposing the revision, opportunity was granted to her to agitate her claim as raised in the suit filed by her in O.S.No.269 of 2010 for declaration and recovery of possession. The said order would also disclose that the petitioner has also availed the Common Law remedy.

10. Consideration and appreciation of the facts of the case would also disclose that the order of eviction in RCOP.NO.96 of 1983 on the file of the Ist Additional District Judge was put into execution in E.P.No.16 of 2004 and the legal heirs of the brother of the appellant / party in person viz., Mr.Nagammal and Mrs.Ragunathan had filed E.A.No.67 of 2010 and the Advocate Commissioner was appointed and when he visited the property, it as found closed and thereafter he handed over possession in favour of the above said applicants. The learned Judge found that such possession was given on 13.03.2010 and report of the Advocate Commissioner would also indicate the there was no occupants in the said property and the report of the Advocate Commissioner would further add that the appellant / petitioner had left the property long back and she was not residing in the property in question.

11. In the light of the fact that whatever grievance expressed by the appellant / party in person, in the form of representation dated 22.03.2015 and 22.04.2015 have already been considered by the official respondents and suitable reply has been given and the said fact has also been recorded by the learned Judge in paragraph No.7 of the impugned order, this Court is of the considered opinion that the reasons assigned in the impugned order do not suffer on account of infirmity or error apparent on the face of the record and this writ appeal lacks merit and substance.

12. In the result, the writ appeal is dismissed confirming the order dated 02.06.2016 made in W.P.No.20132 of 2015. No costs. Consequently connected miscellaneous petition is also dismissed.

sk

Sd/-

सत्यमेव जयते Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Registrar General,
Madras High Court,
Chennai-600 104.

2.The Registrar(Vigilance)
Madras High Court,
Chennai-600 104.

3.The Secretary,
Law Department,
Secretariat, Fort St.George,
Chennai-600 009.

4.The Chairman,
Bar Council of Tamil nadu,
Madras High Court Buildings,
NSC Bose Road, Parry's,
Chennai-600 104.

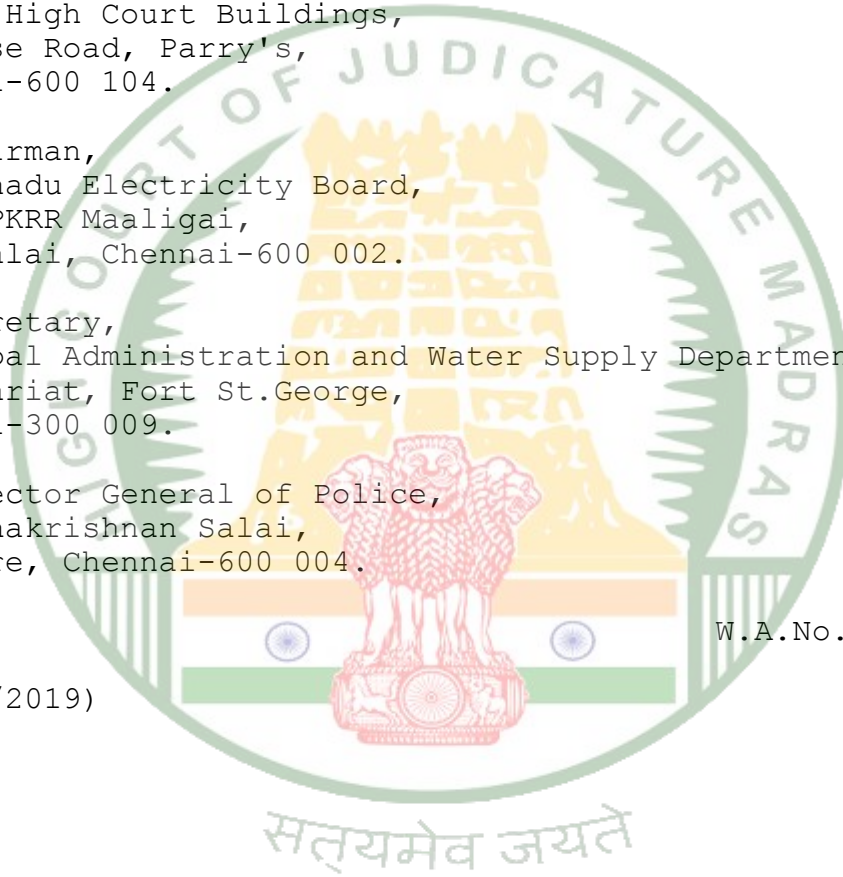
5.The Chairman,
Tamil nadu Electricity Board,
800, NPKRR Maaligai,
Anna Salai, Chennai-600 002.

6.The Secretary,
Municipal Administration and Water Supply Department,
Secretariat, Fort St.George,
Chennai-300 009.

7.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.

W.A.No.629 of 2017

KAK(05/03/2019)



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