



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2020

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THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.9917 of 2020

and

W.M.P (MD)No.8877 & 8878 of 2020

S.Sannasi

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Assistant Director of Town Panchayat,
Madurai Region,
Madurai.

3.The Executive Officer
Watrap Selection Grade Town Panchayat
Watrap,
Virudhunagar District.

4.P.Ravi

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order made in Na.Ka.No.121/2020, dated 18.06.2020 on the file of the third respondent and to quash the same as illegal and arbitrary and consequently direct the third respondent to release a sum of Rs.2.10 lakhs to the petitioner which was sanctioned as per the proceedings of the third respondent herein made in Na.Ka. No.206, dated 01.03.2018 for the construction of house in (old S.No.472/B2) New S.No.1617/27 measuring an extent of 291 sq.feet in Watrap Village and Taluk under the Government of Tamilnadu free housings scheme.

For Petitioner

: Mr.M.Thirunavukkarasu

For Respondents 1 & 2

: Mrs.S.Srimathy

Special Government Pleader



For 3rd Respondent

: Mr.P.Mahendiran,
Additional Government Pleader

For 4th Respondent

: Mr.T.Lajapathi Roy

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O R D E R

Heard the learned counsel appearing for the writ petitioner, the learned Special Government Pleader appearing for the respondents 1 & 2, the learned Additional Government Pleader appearing for the third respondent and the learned counsel appearing for the fourth respondent.

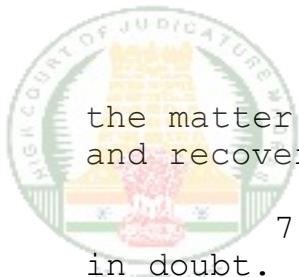
2.The writ petitioner purchased the property comprised in new Survey No.1617/27 measuring 999 sq.ft. under two registered sale deeds. He applied to the Local-body for availing financial assistance for putting up the construction. The Government had announced a scheme known as "Housing for All ". In terms of the scheme, the petitioner is entitled to receive a sum of Rs.2,10,000/-. The said amount is to be disbursed stage by stage. The petitioner was sanctioned with the said financial assistance. But the fourth respondent who is the owner of the adjacent site had levelled allegations that the petitioner had committed encroachment. The fourth respondent had also filed a civil suit in this regard in O.S.No.264 of 2015 on the file of the Principal District Munsif Court, Srivilliputhur. Citing the pendency of the suit and the allegations made by the fourth respondent, the third respondent had withheld the assistance payable to the petitioner herein. The fourth respondent had made their position known by the impugned communication dated 18.06.2020. This is under challenge in this writ petition.

3.The Official respondents have filed a detailed counter affidavit and the learned Special Government Pleader appearing for the respondents 1 & 2 and the learned Additional Government Pleader appearing for the third respondent, reiterated the contentions set out therein.

4.The learned counsel appearing for the fourth respondent asserted that the petitioner had committed serious encroachment on his property and according to him, an encroacher ought not to be favoured with such financial assistance and subsidies.

5. I carefully considered the rival contentions and went through the materials on record.

6.The petitioner's counsel would claim that he has not committed any kind of encroachment. The fourth respondent would allege that encroachment has been committed. The writ Court cannot enter a finding on this. Fortunately, the Civil Court is seized of



the matter. The fourth respondent had filed a suit for declaration and recovery of possession.

7. The entitlement of the petitioner to assistance cannot be in doubt. The only impediment is the pendency of the Civil suit. I take note of the fact that the third respondent had already sanctioned the financial assistance in favour of the petitioner. The subsequent disbursement came to be halted, in view of the allegations made by the fourth respondent.

8. I am of the view that the two issues need not be mixed up, when the entitlement of the petitioner to financial assistance under the scheme is not in doubt, the third respondent can as well disburse the same.

9. In this view of the matter, the order impugned in this writ petition is quashed and the third respondent is directed to disburse the financial assistance payable to the petitioner herein under the aforesaid scheme. This shall be done expeditiously and without delay. In order to safeguard the rights of the fourth respondent, I direct the Principal District Munsif Court, Srivilliputtur to dispose of the O.S.No.264 of 2015 on merits and in accordance with law, within a period of eight months from the date of receipt of a copy of this order.

10. This Writ Petition is allowed, with the aforesaid directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

1. The District Collector,
Virudhunagar District,
Virudhunagar.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Assistant Director of Town Panchayat,
Madurai Region, Madurai.

3.The Executive Officer
Watrap Selection Grade Town Panchayat
Watrap,
Virudhunagar District.

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-18041[F] dated
25/09/2020)

+1 CC to M/s.GP (SR-18123[F] dated 25/09/2020) (SR-18224[F] dated
28/09/2020)

W.P(MD)No.9917 of 2020

24.09.2020

NS (CO)

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