



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.11296 OF 2016

AND

W.M.P.NO.9788 OF 2016

R.Chandrasekharan

... Petitioner

Vs

1. The District Collector,
Kancheepuram District,
Kancheepuram Collector Office,
Kancheepuram.
2. The Commissioner of Police,
Chennai, Commissioner Office,
Vepery, Chennai-600 007.
3. The Health Officer,
Kancheepuram District,
Kancheepuram.
4. The District Social Welfare Officer,
Kancheepuram District,
Kancheepuram.
5. N.Murugan

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, praying to issue a writ of mandamus directing the respondents 1 to 4 to take action as per Law and Rules in respect of the illegal Old Age Home and Orphanage run in the style of "Annai Manonmani Old Age and Orphanage" run by the 5th respondent at Premises bearing Door No.2 (Plot No.14) Balakrishnapuram 2nd Street, Adambakkam, Chennai-600 088, totally measuring an extent of 3200 Square Feet of land together with 648 Square feet of building thereon, comprised in Survey No.174/6 of Adambakkam Village, Tambaram Taluk, Kancheepuram District, within limits of Alandur Municipality.



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For Petitioner : Mr.J.Suresh

For Respondents : Mr.K.M.D.Muhilan
1 to 4 Government Advocate

For Respondent 5 : Mr.R.Subburaj

O R D E R

The relief sought for in the present writ petition is to direct respondent Nos.1 to 4 to take action as per law and rules in respect of the illegal Old Age Home and Orphanage run in the name and style of "Annai Manonmani Old Age and Orphanage" by the fifth respondent at premises bearing Door No.2 (Plot No.14), Balakrishnapuram, II Street, Adambakkam, Chennai - 600 088, ad-measuring an extent of 3200 sq.ft. of land together with 648 sq.ft. of building thereon, comprised in Survey No.174/6.

2. The case of the petitioner is that his vendor acquired the said property by way of a Settlement Deed dated 30.11.1998 and there is no dispute with regard to his title and his vendor's title in respect of the subject property. The fifth respondent was a tenant in the subject property under the petitioner's vendor and after purchasing the subject property, the petitioner informed the fifth respondent about the purchase and asked him to vacate the subject property within a period of two months therefrom. The fifth respondent also agreed to pay the monthly rent of Rs.25,000/- during the two months occupation in the subject property.

3. Learned counsel for the petitioner submits that the fifth respondent has not vacated the subject property as agreed and, he has not paid the monthly rent, subsequently. In view of that, the petitioner states that he has sent two legal notices dated 17.11.2008 and 22.12.2008 to the fifth respondent to vacate and handover the vacant possession of the subject property and to pay arrears of rent in respect of the subject property. The petitioner further filed R.C.O.P. No. 42 of 2009 on the ground of wilful default and demolition and reconstruction before the District Munsiff Court, Alandur and the DMC, Alandur vide order dated 28.06.2013 allowed the said RCOP filed by the petitioner and ordered for eviction of the fifth respondent from the said property on the ground of wilful default. The fifth respondent, thereafter, filed an appeal in R.C.A.No.13 of 2013 and the same was also dismissed.

4. Learned counsel for the petitioner states that two criminal revision petitions in CRP. Nos. 1701 of 2017 and 2311 of 2020 filed by the fifth respondent were also dismissed by



this Court, wherein a direction was issued to dispose of the application filed under Section 47.

5. Learned counsel for the petitioner reiterated that all the proceedings before the Rent Control Court as well as the appellate Court ended in favour of the writ petitioner and in spite of that, the fifth respondent has not vacated the premises.

6. The present writ petition is filed, in view of the fact that the fifth respondent is running the old age home and orphanage in the subject property in violation of the statutory provisions and the petitioner being the owner of the subject property is duty bound to initiate action in respect of such illegality, in view of the fact that the fifth respondent, who continued as tenant was ordered to be vacated by the Court.

7. However, the issue raised by the petitioner in this writ petition is regarding the illegality of running old age home in the subject property belongs to the petitioner. The petitioner states that no proper recognition or approval /license is obtained from the Competent Authority and the guidelines issued by the Government have also not been followed by the fifth respondent for conducting such old age home and orphanage.

8. Learned counsel for the petitioner further states that the fifth respondent is a land grabber and involved in grabbing of lands in that locality. However, Learned counsel for the fifth respondent has disputed the said contention by stating that the fifth respondent is running the old age home and orphanage in accordance with law.

9. In view of the fact that contrary submissions are made by the petitioner as well as the fifth respondent, this Court directed Learned Government Counsel appearing on behalf of the official respondents to produce Government Orders.

10. Government issued guidelines in G.O.(Ms) No.83, Social Welfare and Nutritious Meal Programme (SW 6(1)) Department, dated 23.11.2016, pursuant to the provisions of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Central Act 56 of 2007) and Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 and based on the orders of this Hon'ble Court. Thus, the State Government guidelines are to be followed and such old age homes and orphanages are to be recognised by the Competent Authority by following the procedures as contemplated.

11. Learned Government Counsel appearing on behalf of respondent Nos. 1 to 4 made a submission that as per Rule 12(2),



Registration of old age homes is compulsory and it states that the District Social Welfare Officer shall have powers to inspect the Old Age Homes maintained by individuals /a group of individuals /voluntary organisations / institutions / Charitable trusts / statutory bodies etc., and collect data from any of the above institutions running Old Age Homes. As per Rule 12(3) states that any voluntary organisation / institutions / individuals / a group of individuals / Charitable trusts / statutory bodies running Old Age Homes shall register with District Social Welfare Officer of each district. Thus, registration of old age homes is compulsory under the provisions of the rules and it is not an option.

12. Learned Counsel appearing for the fifth respondent relied on the temporary recognition certificate issued on 06.03.2007 by the District Collector, Kancheepuram district under the provisions of the Orphanages and Other Charitable Homes (Supervision & Control) Act, 1960.

13. However, such temporary certificate cannot be relied upon now after a lapse of fourteen(14) years, as it is only a temporary recognition certificate. After the new enactment, viz., the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and the Rules issued in the year 2009, the fifth respondent ought to have registered the old age home with the Competent Authority informing the infrastructure facilities and other facilities provided by them in respect of the subject property. However, the fifth respondent neither provided any such certificate nor got any recognition from the Competent Authority, viz., District Social Welfare Officer.

14. The allegations raised against the fifth respondent are undoubtedly serious in nature. In this regard, when this Court raised queries as to how the fifth respondent is running the Old Age Home and source of funds available in order to maintain the said home, Learned Counsel for the petitioner made a submission that the fifth respondent with the help of his friends and some other donors, arranging foods for the people, who are all residing in the old age home. Further, there is no clear picture regarding the affairs of the home being run by the fifth respondent and the manner in which the home is being maintained by the fifth respondent, which raised a doubt in the minds of the Court and thus, this Court called the officials of the District Social Welfare Office and the jurisdictional police for the purpose of conducting inspection under the Rules and find out the management and affairs of the old age home and if any illegality is identified, then initiate appropriate action in accordance with law.

15. In view of the fact that allegations and counter allegations are raised by the respective parties, this Court



thought fit to conduct an inspection through the District Social Welfare Officer, to find out the actual status of the inmates and the facilities provided to them.

16. Pursuant to the interim order passed by this Court, the District Social Welfare Officer, Chennai, conducted an inspection on 01.10.2021, along with the jurisdictional police, who also assisted the District Social Welfare Officer, to carry out the inspections peacefully.

17. The inspection report, more specifically, para no.12 reads as under:

"12. I submit that already inspection done by Mrs.Sarkuna, Distrit Social Welfare Officer, Kanchipuram District on 05.08.2015, and defects given below:

- a. No registration under Senior Citizen Maintenance and Protection Act, 2007.
- b. Oldage home not functioning under the Senior Citizen Maintenance and Protection Act, 2007.
- c. No proper medical facilities.
- d. No proper ventilation & environmental hygiene
- e. No proper maintenance of records.
- f. they have only temporarily recognition certificate upto 06.03.2007.

The other findings are relating to the building stability and building licence, etc., and para 12 is relevant as far as the old age /orphan inmates are concerned.

18. The competent authority / District Social Welfare Officer, found that no registration under the Senior Citizens and Maintenance & Protection Act, is obtained and there is no proper medical facility, no ventilation and environmental hygiene. The records were not maintained properly and by obtaining a temporary recognition, the petitioner is continuing for many years, which is impermissible under the statutes.

19. Having noticed the illegalities and irregularities in the matter of getting recognition / licence and the maintenance of inmates, the District Social Welfare Officer, decided to close down the old age home and accordingly, four inmates staying in the said old age home were shifted to Kalaiselvi Karunalaya, Mogappair, Chennai, which is functioning under the control of Social Welfare Department. The rest of the 12 inmates were allowed to join with their family members or relatives. The District Social Welfare Officer and the police officials informed this Court that those old age people happily



joined with their family members, as their family members also accepted them. Therefore, only four inmates were shifted to the said Kalaiselvi Karunalaya Old Age Home.

20. In view of the fact that the 5th respondent was running the old age home in an illegal manner, the District Social Welfare Officer, closed down the old age home and therefore, the petitioner being the owner is at liberty to take possession of his building, as he has already obtained an order of eviction from the competent Court of law. The 5th respondent has already prolonged and protracted the issue by running the old age home in an illegal manner. This being the factum, the petitioner is at liberty to take over the possession of his house, which is now being vacated.

21. Accordingly, the writ petition stands allowed. No Costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

Maya/ars/mka

To

1. The District Collector,
Kancheepuram District,
Kancheepuram Collector Office,
Kancheepuram.
2. The Commissioner of Police,
Chennai, Commissioner Office,
Vepery, Chennai-600 007.
3. The Health Officer,
Kancheepuram District,
Kancheepuram.
4. The District Social Welfare Officer,
Kancheepuram District,
Kancheepuram.

+1cc to Mr.J.Suresh, Advocate, S.R.No.51490
+1cc to the Government Pleader, S.R.No.52329

W.P.No.11296 of 2016

PVS(CO)
RLP(26/10/2021)