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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. NO. 7147 OF 2015

N. Nagabushanam

.. Petitioner

Versus

The Defence Estate Officer
Madras Circle
306, Anna Salai, Teynampet
Chennai - 600 018

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to pass orders on the petitioner's representation dated 09.05.2014, 30.06.2014 and 17.04.2014 as per the orders of this Hon'ble Court in W.A. No. 1346 of 2013

For Petitioner : Mr. S.M. Muralidharan

For Respondent : Mr. S. Diwakar

O R D E R

The present writ petition has been filed praying for issuance of a Writ of Mandamus directing the the respondent to pass orders on the petitioner's representation dated 09.05.2014, 30.06.2014 and 17.04.2014 as per the orders of this Court in W.A. No. 1346 of 2013.

2. The petitioner would state that her husband late Mr. Nagarathinam was an ex-serviceman and was granted lease of land measuring 0.83 acres comprised in GLR Sy.No. 388/721 and 0.53 acre in GLR Sy.No. 388/722 totalling 1.36 acres in St.Thomas Mount cum Pallavaram by the Ministry of Defence. It is further stated that even demise of her husband, she continued to remain in possession of the leased land. While so, the respondent passed an order dated 26-05-2021 calling upon the petitioner to vacate and handover the land to them. Challenging the communication dated 26.05.2021, the petitioner filed W.P. No. 12381 of 2009 and it was dismissed. Aggrieved by the order of dismissal passed in the writ petition, she filed W.A. No. 1346 of 2013 and the appeal was disposed of on 21.04.2014 with liberty to the petitioner to submit a fresh representation to



the respondent seeking smaller extent of land for residential purpose. In the meantime, the petitioner has also instituted a suit before the District Court, Chengalpattu along with Application to condone the delay. Further, the petitioner has also caused a legal notice dated 02.03.2015 to the respondent and called upon them to comply with the orders passed by the Division Bench of this Court in W.A. No. 1346 of 2013 by which liberty was granted to her to make a fresh representation. It is also stated that the petitioner is aged 85 years old and the land in question is the only sustenance for her family, hence, the present writ petition is filed.

3. On notice, the respondent filed a counter affidavit. It is contended by the respondent that the petitioner is attempting to grab the land of the respondent by using it as a vehicle parking area and collecting huge amount from the vehicle owners. The petitioner is squatting in the defence land in spite of the fact that she has no legal right to remain in possession of the property without lease or license. Above all, it is submitted that the representation dated 21-04-2014 submitted by the petitioner was already considered and an order dated 09-05-2014 was passed rejecting her request for leasing any site for residential purpose. The petitioner evidently suppressed the order dated 09-05-2014 passed by the respondent and filed this Writ Petition. Above all, it is stated in paragraph 9 of the additional counter affidavit filed on behalf of the respondent that on 04-03-2015, the petitioner was evicted and the respondent has reclaimed the land in question and the land was also handed over to the local military authorities with an instruction to protect the subject defence land from being encroached by anyone. Therefore, the relief of Mandamus as sought for by the petitioner cannot be granted.

4. Heard both sides and perused the materials placed on record. The petitioner claims to be in possession of the land in question. According to the petitioner, a representation sent to the respondent requesting to lease the land in question to her has not been considered. Therefore, she has filed the Writ Petition. But, in the additional counter affidavit filed by the respondent, it was categorically stated that one of the representations submitted by the petitioner to the respondent was already rejected by passing an order dated 09-06-2014. In paragraph 9 of the additional counter affidavit, it was stated as follows:

"...9. It is respectfully submitted that in addition to the unauthorised occupation of 1.36 acres of defence land in GLRS No. 388/721 and 388/722 of St. Thomas Mount cum Pallavaram Cantonment under the management of this Respondent, the petitioner was also in unauthorised



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occupation of GLRS NO. 388/14 Cantonment Road which leads from Old Trunk Road to Pallavaram Railway Station. This Road was also closed by the petitioner. It is submitted that finally, on 04.03.2015 she was evicted from total defence land and possession has been taken over by the DEO in the presence of Local Military Authorities, CEO St. Thomas Mount, Magistrate (Tasildar Alandur) and Assistant Police Commissioner, Pallavaram and the same has been handed over to the Local Military Authorities Pallavaram for protecting the subject defence land."

5. In light of the above categorical stand taken by the respondents in the counter affidavit, the relief of Mandamus sought for by the petitioner cannot be granted. Accordingly, by recording statement made in paragraph 9 of the additional counter affidavit, this Writ Petition stands closed. No costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

dhk

To

The Defence Estate Officer
Madras Circle
306, Anna Salai, Teynampet
Chennai - 600 018

+1cc to Mr. S.M. Muralidharan, Advocate, SR.No.43237

W.P. No. 7147 of 2015

GP(CO)
PM(09/09/2021)