



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos. 19948 & 17981 of 2019

and

W.MP. Nos.19458, 19459 & 17393 of 2019

Ayub ..Petitioner in W.P. No. 19948 of 2019
A.M. Abdul Salam ..Petitioner in W.P. No. 17981 of 2019
Versus

1.The Executive Magistrate
Cum Sub Collector
Thirupathur, Vellore District

2.A.S.Noor Jahan ..Respondents in W.P. No. 19948 of 2019

1.The District Collector
Collectorate Office
Vellore

2.The Sub Collector
Tirupathur, Vellore District

3.The Tahsildar
Tirupathur, Vellore District

4.A.S.Noor Jahan

5.Ayub

6.A.S. Allauddin ..Respondents in W.P.No. 17981 of 2019
(R6 is impleaded vide Court Order
dated 15.07.2019 in CMP.20047/2019
in W.P.17981/2019)

Prayer in W.P.No. 19948 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the first respondent ending with proceedings dated 1/4/19 in Rc.A35461/18 and quash the same.

Prayer in W.P.No. 17981 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to remove the seal illegally put up at No.91/10A, Sama Nagar, 3rd Street, Tirupattur and deliver possession to the petitioner.



W.P.No. 19948 of 2019

For Petitioner : Mr.Nissar Ahmed N.A.
For Respondents : Mr.V.Baranidharan for R1
Additional Government Pleader
Mr.S.Arivazhagan for R2

W.P.No. 17998 of 2019

For Petitioner : Mr.Nissar Ahmed N.A
For Respondents : Mr.V.Baranidharan for R1-R3
Additional Government Pleader
Mr.S.Arivazhagan for R4

COMMON ORDER

Since the issue involved in both the matters and the facts are one and the same. Both the petitions are disposed of by way of this common order.

2. The petition in W.P. No. 19948 of 2019 has been filed for the issuance of Writ of Certiorari seeking to call for the records of the first respondent ending with proceedings dated 1/4/19 in Rc.A35461/18 and quash the same.

3. The petition in W.P. No. 17981 of 2019 has been filed for the issuance of Writ of Mandamus seeking to direct the respondents 1 to 3 to remove the seal illegally put up at No.91/10A, Sama Nagar, 3rd Street, Tirupattur and deliver possession to the petitioner.

4. According to the petitioner in W.P. No. 19948 of 2019, the second respondent is his mother, who is living with his brother and further, his brother on malafide intention had instigated his mother to file an application before the first respondent under Senior Citizen Welfare and Maintenance Act, 2007 claiming possession of his house and the same was filed by his mother on 08.10.2018. Further, to give quietus to this issue, the first respondent had passed an order in Rc.A35461/18 dated 01.04.2019 ordering him to deliver the possession of the house to the second respondent within seven days and also with criminal prosecution under Section 24 of the aforesaid Act. Aggrieved against the order of the first respondent, he had filed an appeal before the District Collector, Vellore and subsequently, he filed a writ petition in W.P. No. 13455 of 2019 before this court seeking to dispose of the appeal filed before the District Collector, Vellore. The said writ petition in W.P. No. 13455 of 2019 was withdrawn by the petitioner, as the appeal which was filed before the District Collector, Vellore would not lie in light of Section 16 of the aforesaid Act, which stipulates that only the aggrieved senior citizens may prefer an appeal before the appellate authority under the



aforesaid Act. Hence, the petitioner left with no other option has come up with this writ petition.

5. According to the petitioner in W.P. No. 17981 of 2019, he had purchased property out of his hard earned money at Door No.91/10A, Sama Nagar, 3rd Street, Tirupathur in the name of his wife one Mrs.A.J. Noorjahan, the fourth respondent herein. Further, due to difference of opinion, his son, the fifth respondent herein shifted him along with his wife at 172/5, Asiriyar Nagar and had instigated his wife to file an application an application before the second respondent under Senior Citizen Welfare and Maintenance Act, 2007 claiming possession of his house and the same was filed by his mother on 08.10.2018. Further, to give quietus to this issue, the second respondent passed an order in Rc.A35461/18 dated 01.04.2019 ordering him to deliver the possession of the house to the fourth respondent within seven days and also with criminal prosecution under Section 24 of the aforesaid Act before a competent criminal court. Aggrieved against the order of the second respondent, on 10.04.2019, he filed an appeal before the first respondent seeking to stay the order passed by the second respondent. While so, the third respondent without any prior intimation sealed the above premises. Finding no other alternative remedy, the petitioner has approached this court by way of writ petition.

6. The learned counsel for the petitioners in both the writ petitions submitted that the third respondent in W.P. No. 17981 of 2021 without any prior notice had sealed the premises and the same is not contemplated in the aforesaid Act and prayed this court to de-seal the property and quash the impugned proceedings dated 01.04.2019 in Rc.A35461/18.

7. The learned Additional Government Pleader appearing for the respondents submitted that if the parties are amicably settling the dispute, the official respondents have no serious objection to de-seal the premises.

8. Heard the learned counsel for the petitioners in both the petitions as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

9. Considering the facts and circumstances of these cases and in view of the fact that the parties are settling the disputes amicably, this Court, considering the relationship of the parties and the nature of the dispute, this Court is inclined to set aside the order passed by the 3rd respondent and directs the third respondent to de-seal the premises situated at No.91/10A, Sama Nagar, 3rd Street, Tirupathur and handover the same to the fourth respondent namely Mrs.A.S.Noor Jahan within a period of two weeks from the date of receipt of a copy of this order as no useful purpose would be served in keeping the premises under seal.



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10. Accordingly, these writ petitions stands disposed of.
No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Executive Magistrate Cum Sub Collector,
Thirupathur, Vellore District.

2.The District Collector,
Collectorate Office,
Vellore.

3.The Sub Collector,
Tirupathur, Vellore District.

4.The Tahsildar,
Tirupathur, Vellore District.

+2ccs to Mr.N.A.Nissar Ahmed, Advocate SR. Nos. 61722, 61723

+3ccs to Mr.S.Arivazhagan, Advocate SR. Nos. 61430, 61429, 62302

+1cc to Government Pleader SR. No.61957

WP Nos. 19948 & 17981 of 2019

RR (CO)

PR (06/01/2022)