



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.25959 & 15760 of 2021

M/s.Serene Kshetra Owner's Association,
Rep. by its Secretary
S.S.Raghavan
T3-11, Serene Kshetra,
Natthapettai, Ayyampettai Post,
Kanchipuram - 631 601.

... Petitioner
(in both Writ Petitions)

Vs.

1.The District Collector
Office of the District Collector
Cheyyar - Kancheepuram Road
Gandhi Nagar, Thaiyurkulam
Kancheepuram, Tamil Nadu - 631 501.

2.The District Social Welfare Officer
No.49A, Malligai Chetty Street,
Kancheepuram - 631 501.

3.The Principal Secretary
Principal Secretary to Government of Tamil Nadu
Department of Social Welfare
St. George Fort,
Chennai - 600 001.

... Respondents
(in W.P.No.25959 of 2021)

1.The District Social Welfare Officer
No.49A, Malligai Chetty Street,
Kancheepuram - 631 501.

2.The Principal Secretary
Principal Secretary to Government of Tamil Nadu
Department of Social Welfare
St. George Fort,
Chennai - 600 001.

... Respondents
(in W.P.No.15760 of 2021)



Prayer in W.P.No.25959 of 2021: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st and 2nd respondents take action on the complaint dated 01.09.2021 and consequently issue appropriate directions and orders to protect the life and liberty of the senior citizens in the project 'Serene Kshetra', in accordance with G.O.(Ms) No.83, (Social Welfare and Nutritious Meal Programme (SW 6(1)) Department, dated 23.11.2016 and the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rule, 2009, within a stipulated time fixed by this court.

Prayer in W.P.No.15760 of 2021: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st respondent to consider the representation of the petitioner dated 14.06.2021 in accordance with G.O.(Ms) No.83, (Social Welfare and Nutritious Meal Programme (SW 6(1)) Department, dated 23.11.2016 and the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rule, 2009, within a stipulated time fixed by this court.

For Petitioner : Mr.Ralph V. Manohar
(in both Wps)

For Respondents: Mr.P.Gurunathan,
Additional Government Pleader
(in both Wps)

C O M M O N O R D E R

These petitions have been filed for issuance of writ of Mandamus to direct the respondents 1 and 2 to take action on the complaint of the petitioner's Association and consequently issue appropriate directions and orders to protect the life and liberty of the senior citizens in the project 'Serene Kshetra', in accordance with G.O.(Ms) No.83, (Social Welfare and Nutritious Meal Programme (SW 6(1)) Department, dated 23.11.2016 and the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rule, 2009, within a stipulated time fixed by this Court.

2. The case of the petitioner is that the petitioner is the Secretary of the M/s.Serene Kshetra Owner's Association. The Senior Citizens Residential Project at Nathapettai Village, Kancheepuram District was developed in the lands situated in Kancheepuram District, Nathapettai Village in S.F.NO.41B/2A3, 41B/2B1A, Valluvapakkam Village in S.F.Nos.45/4B2, 45/5B, 45/6B,



45/7, 45/8, 45/10, 45/11, 45/12, admeasuring an extent of 13.20 acres and the said project was developed under the brand name 'Serene Kshethra' and it was jointly developed by the promoters. The project was partially completed in the year 2017 and 158 units were handed over to the purchasers who were all senior citizens and the promoters among themselves nominated one of them to be the service provider to maintain the said project and to provide senior citizens care and facilities to the residents. At the time of handing over of the units, the Government of Tamil Nadu has issued an order in G.O.(Ms.)No.83, (Social Welfare and Nutritious Meal Programme (Swd 6(1)) Department dated 23.11.2016, fixing minimum / essential standards in old age home and the said project falls within the classification of old age home under the Government Order dated 23.11.2016 and therefore, the Society had been representing to the promoters/service provider to register the old age home as per Rule 12(2) of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009. In that regard also given a representation dated 14.06.2021 to the 2nd respondent and also filed w.P.No.15760 of 2021 for a relief of Mandamus against the 2nd respondent. Thereafter, the 2nd respondent had issued notice to the service provider, demanding to register themselves under the Senior Citizens Rules, however the service provider did not come forward to give any reply to the said notice and also failed to register the Association as per the Rules. Thereafter, the 2nd respondent had issued a showcause notice dated 23.08.2021, even after receipt of the show cause notice, the service provider had not replied and registered themselves as per the provisions of the Act.

3. It is the claim of the petitioner that the promotor, builder and the service provider all colluded together and they deprived the residents / purchasers in the project of their lawful right over the common areas and amenities in the project and therefore, one Senior Citizen had filed W.P.No.22967 of 2015 to direct the respondents to frame regulation and apppoint a Regulatory Authority to monitor the functioning of senior citizens homes. On directions of this Court, the Government had passed a Government Order in G.O.Ms.No.83, Social Welfare and Nutritious Meal Programme (SW 6(1)) Department, dated 23.11.2016. Under the said Government Order, the service provider was restrained to collect excess security deposits and to demand exorbitant monthly charges and any such grievance of the senior citizens with regard to the collection of exorbitant monthly charges has to be addressed to the Regulating Authority under the Government Order and it laid out a comprehensive mechanism to redress the grievances of the senior citizens in



the project. Therefore, a complaint was raised before the respondents 1 and 2 on 01.09.2021, highlighting the exorbitant increase and demand in the monthly maintenance charges from the senior citizens in the project. The Association had sought for urgent reliefs from the respondents 1 and 2 to direct the service provider to deposit the refundable deposits in a nationalized bank and also to restrain the service provider from implementing the unilateral and exorbitantly increased maintenance charges. The Government Order dated 23.11.2016 which had been passed for the benefit of the senior citizens is not obeyed by the service provider. Therefore, the petitioners are constrained to approach this Court by filing this Writ Petition.

4. The learned counsel appearing for the petitioners submitted that unless and until the respondents 1 and 2 are directed to take cognizance of the complaint dated 01.09.2021, the petitioners will be put to irreparable loss and great hardship. However, it would suffice if this Court issues direction to the respondents 1 and 2 to decide the petitioner's complaint dated 01.09.2021 and pass orders on the same within a particular time frame fixed by this Court and further issue direction to the service provider viz., M/s.Columbia Pacific Communities Private Ltd., (Formerly known as M/s.Serene Senior Care Private Ltd), to implement the Rules and prevent them from collecting exorbitant amount from the senior citizens.

5.The learned Additional Government Pleader has no objection for said order being passed and he further submitted that appropriate order will be passed on the petitioner's Association complaint dated 01.09.2021.

6. In view of the aforesaid submissions, this Court without expressing any opinion on the merits of the case directs the respondents 1 and 2 to consider the petitioner's Association complaint dated 01.09.2021 on merits and in accordance with law and pass appropriate orders after affording opportunity to the Concern parties, within a period of six weeks from the date of receipt of a copy of this order. These writ petitions are accordingly disposed of. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

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+2cc to Mr.Ralph V.Manohar, Advocate SR.No.67190
+1cc to the Government Pleader SR.No.67501

W.P.Nos.25959 & 15760 of 2021

NR(CO)
GN(21/01/2022)