



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .Nos.2666 of 2020 and 22687 of 2018

W.M.P. (MD) .No.2298 & 2299 of 2020 and 20581 of 2018

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W.P. (MD) .No.2666 of 2020

S.Selvi

... Petitioner

Vs.

1.The District Collector,
Tenkasi District, Tenkasi.

2.The Project Director,
District Rural Development Agency,
Tenkasi.

3.The Block Development Officer,
Kadayanallur,
Kadayanallur,
Tenkasi District.

4.The President,
Oormelazhagiyan Village Panchayat,
Kadayanallur Taluk,
Tenkasi District.

5.M.Pattammal.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent's (The District Collector, Tirunelveli District now Tenkasi District) impugned order in A2/3753/2017-2, dated 06.06.2018 as illegal and quash the same and consequently, directing the 1st respondent herein to consider the petitioner's request in respect of allotment of House No.91, situated at Samathuvapuram, Oormelalagiyan Village, Kadayanallur Taluk, Tenkasi District.

For Petitioner : Mr.P.Saravanakumar

For Respondents : Mr.M.Lingadurai for R1 to R4
Government Advocate
Mr.S.Sukumar for R5

W.P. (MD) .No.22687 of 2018

M.Pattammal

... Petitioner

Vs.



1.The District Collector,
Tirunelveli District, Tirunelveli.

2.The Project Director,
District Rural Development Agency,
Tirunelveli.

3.The Block Development Officer,
Kadayanallur,
Kadayanallur,
Tirunelveli District.

4.The Special Officer,
Oormelazhagiyan Village,
Kadayanallur Taluk,
Tirunelveli District.

5.Selvi. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents 2 to 4 to implement the proceedings of the first respondent, dated 06.06.2018, in proceeding No.A2/3753/2017-2 and hand over the possession and key of D.No.91 of Samathuvapuram houses at Oormelalagiyan Village, Tirunelveli District to the petitioner, within a time frame as fixed by this Court.

For Petitioner : Mr.S.Sukumar

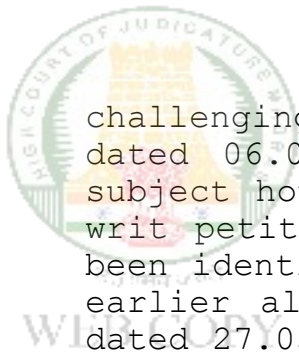
For Respondents : Mr.M.Lingadurai for R1 to R3
Government Advocate
Mr.P.Saravanakumar for R5

COMMON ORDER

The issue involved in both the writ petitions are common and hence, they are taken up together, heard and disposed of through this common order.

2.The petitioner in W.P.(MD).No.22628 of 2018 was allotted the subject house at door No.91 by the proceedings of the first respondent, dated 06.06.2018. The petitioner was found to be a beneficiary and hence, the first respondent had made the allotment in favour of the petitioner. The grievance of the petitioner is that the possession of the house was not handed over to the petitioner and the fifth respondent continues to illegally occupy the property. Left with no other alternative, she has filed this writ petition for a direction to the respondents to give effect to the proceedings of the first respondent, dated 06.06.2018 and to hand over possession of the property.

3.The petitioner in W.P.(MD).No.2666 of 2020, who is the fifth respondent in W.P.(MD).No.22628 of 2018, has approached this Court,



challenging the impugned allotment order of the first respondent, dated 06.06.2018 and for a consequential direction to allot the subject house at door No.91 in her favour. The petitioner in this writ petition is making her claim on the ground that she has also been identified as one of the beneficiary and the subject house was earlier allotted to her uncle named Arasaya, through proceedings, dated 27.05.2013 and the petitioner was taking care of him till his demise and she continued to be in occupation of the property. According to the petitioner, the allotment order has been issued by the first respondent on the assumption that the house is not under occupation and whereas, the petitioner is in possession and enjoyment of the subject property.

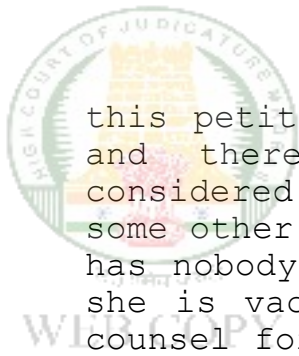
4.Heard Mr.S.Sukumar, learned counsel for the petitioner in W.P.(MD).No.22687 of 2018, Mr.P.Saravanakumar, learned counsel for the petitioner in W.P.(MD).No.2666 of 2020 and Mr.M.Lingadurai, learned counsel appearing for the respondents 1 to 4 in both the writ petitions.

5.The limited issue that arises for consideration is as to whether the impugned allotment order of the first respondent, dated 06.06.2018, requires any interference of this Court.

6.It is seen from records that the first respondent through proceeding, dated 27.05.2013 had allotted the subject house in favour of one Arasaya. The said Arasaya and his wife subsequently died and they did not leave behind any legal heirs. Therefore, taking into consideration the fact that the allottee is no more and there is no legal heir who can stake a claim over the house property, the first respondent proceeded to issue the impugned allotment order, dated 06.06.2018, in favour of the petitioner in W.P.(MD.No.22687 of 2018. There is no dispute with regard to the fact that this petitioner was identified as one of the beneficiaries and she was allotted the subject house.

7.The petitioner in W.P.(MD).No.2666 of 2020 is staking claim over the subject house only on the ground that she was taking care of late Arasaya, who was the original allottee. That apart, she also claims to be in possession and enjoyment of the property. The fact that this petitioner was taking care of Arasaya does not give any legal right to occupy the property after the demise of Arasaya. As rightly found by the first respondent, as per the terms and conditions of the allotment order, except the allottee no one else can claim any right over the subject property. It is under these circumstances, the first respondent proceeded to issue the impugned allotment order, dated 06.06.2018 in favour of the petitioner in W.P.(MD).No.22687 of 2018 and this Court does not find any ground to interfere with the same.

8.The learned counsel appearing for the petitioner in W.P.(MD).No.2666 of 2020 made an alternative submission to the effect that



this petitioner has also been found to be one of the beneficiaries and therefore, her representation, dated 19.07.2018 can be considered by the first respondent and she can atleast be allotted some other house. The learned counsel submitted that the petitioner has nobody to support her and she will be virtually in streets, if she is vacated from the subject property. Therefore, the learned counsel for the petitioner, also sought for some time to vacate the property, if in case, this Court is not inclined to entertain the claim made by the petitioner.

9.The learned counsel appearing on behalf of the petitioner in W.P.(MD).No.22687 of 2018, submitted that the fifth respondent in this writ petition does not have the *locus standi* to challenge the allotment order passed by the first respondent and that apart, she also does not have the legal right to seek for the allotment of the house in her favour. The learned counsel submitted that the fifth respondent in this writ petition is in illegal occupation of the subject property and in spite of the allotment order made in favour of the petitioner in the year 2018, the petitioner is not in a position to take possession of the property for the last three years.

10.As already held by this Court, this Court does not find any ground to interfere with the allotment order of the first respondent, dated 06.06.2018. However, considering the request made by the learned counsel for the petitioner appearing in W.P.(MD). No.2666 of 2020, this Court deems it fit to give some time to the petitioner therein to vacate and hand over the possession of the subject property on or before 30.09.2021. The petitioner shall file an affidavit before the Registry undertaking to hand over the possession of the property on or before 30.09.2021, within a period of two weeks from today i.e., on or before 29.06.2021.

11.Immediately, on handing over the possession of the subject house, the first respondent shall issue necessary directions for handing over the possession of the property in favour of the petitioner in W.P.(MD).No.22628 of 2018. This process shall be completed by the first respondent on or before 30.10.2021.

12.Insofar as the claim made by the petitioner in W.P.(MD). No.2666 of 2020, to consider her representation, dated 19.07.2018 and to allot some other house, since she is also identified as a beneficiary, there shall be a direction to the first respondent to consider the representation, dated 19.07.2018 and take a decision on its own merits and in accordance with law and pass appropriate orders on or before 31.08.2021. It is made clear that the consideration of the representation by the first respondent and passing orders on the same should not come in the way of the petitioner vacating and handing over the premises within the time stipulated by this Court.



13. In the result, W.P.(MD)No.2666 of 2020 is dismissed with the above directions and W.P.(MD).No.22687 of 2018 is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

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Sub Assistant Registrar(CS)

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To

1.The District Collector,
Tenkasi District, Tenkasi.

2.The Project Director,
District Rural Development Agency,
Tenkasi.

3.The Block Development Officer,
Kadayanallur,
Kadayanallur,
Tenkasi District.

4.The President,
Oormelazhagiyan Village Panchayat,
Kadayanallur Taluk,
Tenkasi District.

+1 CC to M/s.S.SUKUMAR, Advocate (SR-19402[F] dated 16/06/2021)

+1 CC to M/s.SPL GP (SR-19510[F] dated 17/06/2021)

W.P.(MD).Nos.2666 of 2020
and 22687 of 2018

15.06.2021

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