



W.P.No.18919 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.18919 of 2011
and W.M.P.No.1 of 2011

P.Amaresh Babu

... Petitioner

Vs.

1.The Secretary to Government,
Housing & Urban Development (B2) Department,
Chennai – 9.

2.The Accommodation Controller,
O/o.The District Collector,
Collectorate, Rajaji Salai,
Chennai – 1.

3.P.Srinivasan

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the 1st respondent's proceedings in G.O.Ms.No.103, Housing and Urban Development (Va.Che 2) Department dated 21.07.2011, confirming the 2nd respondent's order made in proceedings No.M3/51788/03 dated 12.04.2004 and quash the same and direct the respondents to restore the petitioner's possession in the rear portion of the premises at Door No.79, Millers Road, Kilpauk, Chennai-10.



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For Petitioner : Mr.M.Muthappan

For Respondents : Mr.R.Kumaravel
Additional Government Pleader
for R1 & R2
Mr.M.Stalin I Suresh for R3

ORDER

This writ petition was filed challenging the proceedings of the 1st respondent in G.O.Ms.No.103, dated 21.07.2011, confirming the proceedings of the 2nd respondent dated 12.04.2004 and for a direction to the respondents to restore the possession of the petitioner in the rear portion of the premises.

2.The case of the petitioner is that his father was occupying the rear portion of the subject property and on his demise, the petitioner and other legal heirs became the tenants and were paying the rent to the owner of the property. The further case of the petitioner is that the 2nd respondent proceeded to pass orders in his capacity as a Accommodation Controller and the 2nd respondent proceeded to handover the front portion of the property to another State Government employee and ultimately, the front portion was handover to the District Collector.

3.It is stated that the 3rd respondent purchased the property and



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applied to the Accommodation Controller seeking for the possession of the property. The same was considered and the 2nd respondent passed an order on 21.09.2001 and directed the persons in occupation of the property to handover possession to the petitioner. This became a subject matter of challenge before this Court and the matter was remanded back to the file of the 2nd respondent and once again an order was passed in favour of the 3rd respondent by directing the occupant to handover possession of the property. Since this was not complied with, the 3rd respondent filed a writ petition before this Court in W.P.No.19741 of 2003 and this Court directed the 2nd respondent to proceed further with the process of eviction through an order dated 11.08.2003. Once again, the petitioner filed a writ petition before this Court in W.P.No.33158 of 2003 seeking for a fresh enquiry by the 2nd respondent. A fresh enquiry was infact conducted by the 2nd respondent and ultimately, the property was handed over in favour of the 3rd respondent on 14.04.2004.

4.The petitioner aggrieved by the same filed an appeal before the 1st respondent and the said appeal was dismissed by the 1st respondent through the impugned Government Order dated 21.07.2011. Aggrieved by the same, the present writ petition has been filed before this Court.



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5.The 3rd respondent has filed a counter affidavit and it is seen that after the property was handed over to the 3rd respondent on 14.04.2004, the existing structure was demolished and a new structure was put up in the property. The learned counsel for the 3rd respondent submitted that the entire three floor construction was completed and it has also been occupied.

6.Heard Mr.M.Muthappan, learned counsel appearing on behalf of the petitioner, Mr.R.Kumaravel, learned Additional Government Pleader appearing on behalf of the 1st and 2nd respondents and Mr.M.Stalin I Suresh, learned counsel appearing on behalf of the 3rd respondent.

7.In the considered view of this Court, this Court does not find any illegality or infirmity in the impugned G.O.Ms.No.103, dated 21.07.2011, wherein, the order passed by the 2nd respondent through proceedings dated 12.04.2004, was confirmed. The petitioner was given repeated opportunity to put-forth his grievance and the 2nd respondent in the impugned order, after extracting the entire facts of the case, has categorically come to a conclusion that the petitioner was not able to produce any materials to sustain the stand taken by him and he was not even paying any rent to anyone. That apart, the 2nd respondent found that the petitioner was an unauthorized and illegal occupant in the property. This was further confirmed



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by the 1st respondent in the appeal.

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8.The subsequent development in this case, wherein, the existing structure was demolished and the new structure has been put up and the 3rd respondent has already occupied the property, virtually makes the claim made in this writ petition stale. At this point of time, it will not be appropriate to once again restore the earlier status quo. Therefore, even on the ground of subsequent developments that had taken place, this Court is not inclined to grant the relief as sought for in this writ petition.

9.In view of the above discussion, this Court does not find any merits in this writ petition and accordingly, this writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

05.07.2022

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
ssr

N. ANAND VENKATESH, J.



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To

- 1.The Secretary to Government,
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