



W.P.No.19986 of 2015

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.01.2023

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.19986 of 2015

Ananthiammal

... Petitioner

Vs

- 1.A.Lingarajan
- 2.Thavamani Lingarajan
- 3.Revathi
Social Welfare Department
Clerk, VIII Floor,
Office of Collectrate,
Chennai – 600 001.
- 4.Revathi
Superintendent, VIII Floor,
Social Welfare Board,
Office of Collectrate,
Chennai – 600 001.
- 5.Glory Gunaseeli
District Children Protection Officer,
No.58, Suriyanarayana Salai,
Royapuram, Chennai – 600 013.
- 6.The Inspector of Police
H-4, Korukkupet Police Station,
Chennai – 600 021.
- 7.The Commissioner of Police
Vepery,
Chennai – 600 007.



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8. The District Collector
Officer of Collectrate
Chennai – 600 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the respondents 4 to 8 to remove the seal putup of on the lock in the premises belongs to Helping Hands at No.11/21, Kannan Street, Korukkupet, Chennai – 600 021, and hand over the possession to me.

For Petitioner : Mr.R.Sankarasubbu
For Respondents : Mr.A.S.Balaji– R1 & R2
Mr.P.Kumaresan, R4, R6 to R8
Additional Advocate General
assisted by Ms.S.Anitha
Special Government pleader
No appearance – R3 & R5

ORDER

The petitioner has sought a mandamus directing R4 to R8 to remove the seal and lock on the premises at No.11/21, Kannan Street, Korukkupet, Chennai – 600 021 (in short 'property'/property in question').

2. The petitioner claims to be engaged in social service and the affidavit filed in support of the Writ Petition contains details of various activities that she claims to be engaged in. She had set up an organisation, by name Helping Hands, i.e, Udhavum Kaigal, registered under Tamil Nadu Societies Registration



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Act, 1975 in the year 2004 (Registration No.680/2004). She also claims to be holding an Income Tax exemption under Section 80(G) of Income Tax Act, 1961 under registration No.DIT(E)No.2(803)/2004-2005. It is unknown as to whether this registration is still in force.

3. The property in question which belonged to R1 and R2 has been used for the activities of Udhavum Kaigal. While it is the case of the petitioner that she has purchased the property from R1 and R2, it is their categoric contention that the property was only under lease. In this regard, the petitioner relies upon the judgment of the Hon'ble Supreme Court in *Olga Tellis & Ors. Vs. Bombay Municipal Corporation & Ors.* (1986 AIR 180).

4. The aforesaid judgment relates to a claim by pavement and slum dwellers touching on their forcible eviction and the removal of their hutments invoking the provisions of the Bombay Municipal Corporation Act, 1888. The Constitutional Bench of the Hon'ble Supreme Court held that the Writ Petitions were maintainable as the fundamental rights of those Writ Petitioners had been violated by the Municipal Corporation. After having considered the submissions of the parties, the Bench noted that normally the authorities would have been directed to afford an opportunity to the petitioners to show why the encroachments not be removed as such opportunity had not been granted at the



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first instance. However, that deficiency had been remedied by the Bench in ample measure, since both sides had been elaborately heard. The Writ Petitions were disposed, the Court holding that the authorities were justified in directing the removal of encroachments on pavements, footpaths and accessory roads.

5. The aforesaid judgment concern with the question of squatter colonies. Nothing has been pointed in that judgment that would have a bearing on the facts of the present case, which, in my considered view, are entirely different and distinguishable.

6. In the counter dated 14.12.2022, filed by R1, it is stated that he is the owner of the property in question and that he was approached by the petitioner for using the same on lease for conducting computer and tailoring classes. The property comprising 1st, 2nd and 3rd floors admeasuring 2882 Sq.ft., was thus leased to the petitioner on 30.03.2008 and the last tenancy was on 28.06.2011 for a period of 11 months.

7. According to R1, there have been defaults committed in the payment of rent by the petitioner from 21.08.2011 onwards. Since the petitioner did not respond to the demands for rental arrears, rent control proceedings was initiated in R.C.O.P.No.2190 of 2013 on the file of X Small Causes Court, Chennai. The R.C.O.P. was dismissed and admittedly, the dismissal has attained finality as on



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date. According to R1, this has emboldened the claim of the petitioner for title to the property in question. Though the petitioner states that police complaint has been filed on 04.03.2014 in C.S.R.No.73/H/4 PS/2014, admittedly, R1 has not pursued the same.

8. Thus and seeing as both R.C.O.P. as well as police complaint have not been pursued by R1, this Court is not inclined to make any indication in regard to the title to the property, vesting in either the one or the other party. No doubt, there is some merit in the statement of R1 to the effect that it was only the question of rental arrears that was left unpursued, which should not have any bearing on the question of title itself.

9. Be that as it may, the mandamus as sought, is not liable to be granted in light of the acrimonious disputes touching upon factual matters. R1 has admittedly made several representations before R8, being the District Collector, Chennai and, one of the representations, dated 18.03.2014 is stated to have been disposed by R8 vide order dated 16.03.2015 directing the police authorities to hand over possession of the property in question to him.

10. On 27.04.2015, a police complaint has yet again been filed by R1 which this Court finds mysterious, in the face of order dated 16.03.2015 said to be in favour of R1. To be noted that copies of letters dated 18.03.2014,



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27.04.2015 and order dated 16.03.2015 have not been produced before the Court.

11. In such circumstances and bearing in mind the narration aforesaid, let R8 issue notice to the petitioner as well as to R1 and R2, hear them and come to a reasoned conclusion in regard to whom the property is to be handed over to, in accordance with law. It is made clear that the seal put on the premises will continue till such time orders are passed by R8 as directed aforesaid.

12. The present location as well as two other locations where the petitioner claims to have carried out her charitable activities come under the scanner of Law enforcement and the NGO's were seen to be indulging in various nefarious activities including sexual abuse of the minor inmates. Thus proceedings were taken up by the authorities including under the provisions of the Protection of Children from Sexual Offences Act, 2012 and the petitioner and her associates are facing trial in this regard.

13. Concerned with the children who were housed in these Homes, status report was sought from R3 and R4 setting out the present particulars of the 41 inmates of the Homes. A status report has been filed by R3 and R4 on 30.01.2023 and is part of the records.



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14. The sum and substance of the status report is to the effect that the children are safely and securely housed in other Homes and have moved on pursuant to the incident in question, though undoubtedly, they will carry the scar of such trauma for all times.

15. In fine, the request for mandamus is rejected and this Writ petition is dismissed. No costs.

sl

30.01.2023

Index : Yes / No

Speaking Order

Neutral Citation:Yes

To

- 1.The Inspector of Police
H-4, Korukkupet Police Station,
Chennai – 600 021.
- 2.The Commissioner of Police
Vepery,
Chennai – 600 007.
- 3.The District Collector
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Dr.ANITA SUMANTH, J.

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