



W.P. No.24883 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2023

CORAM

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

Writ Petition No.24883 of 2019

Matheswari

.. Petitioner

Versus

1. The District Collector,
Dharmapuri District.
2. The Tahsildar,
Harur Taluk,
Dharmapuri District.
3. The Villae Administrative Officer,
Velanur Village,
S.Thathampatti,
Harur Taluk,
Dharmapuri District.
4. The Block Development Officer,
Harur Panchayat Union Harur Taluk,
Dharmapuri District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to construct a new RCC concrete house with the linear measurement of 21 feet x 11 feet on the patta land measuring 58 cents comprised in S. No.253/3A, Nalkuththi Tribal Village, Velanur Post, Harur Taluk, Dharmapuri District based on the petitioner's representation dated 20.4.2018 or alternatively pay compensation of Rs.10,00,000/- to the petitioner.



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For Petitioner : Mr. P. Srinivasan
For Respondents : Mr. M. Alagu Gowtham,
Government Advocate for R1 to R3

ORDER

This writ petition has been filed for issuing a Writ of Mandamus directing the respondents to construct a new RCC concrete house with the linear measurement of 21 feet x 11 feet on the patta land measuring 58 cents comprised in S. No.253/3A, Nalkuththi Tribal Village, Velanur Post, Harur Taluk, Dharmapuri District based on the petitioner's representation dated 20.4.2018 or alternatively pay a compensation of Rs.10,00,000/- to him.

2. It is the case of the petitioner that she is one of the beneficiaries of the scheme mooted by the Government titled "Kalaighar Veedu Vazhangum Thittam 2010-2016". As per the scheme, houseless individuals can construct a house with RCC roofed concrete house at the cost of Rs.5,00,000/- out of which Rs.1,00,000/- will be given as subsidy by the Government. As per the scheme, the beneficiary should own a patta land where the construction can be put up.

3. According to the petitioner, her family members owns 2 ½ cents of

land in S. No.253/3A, bearing Patta No.149. Further, upon scrutiny of the



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application submitted by her, the 4th respondent inspected the land and thereafter sanctioned the amount and she has also constructed a concrete house. While so, to her shock and surprise, under the guise that the construction put up by the petitioner is affecting the Government pathway, the respondents have demolished the said concrete house without even serving any notice or affording opportunity to the petitioner. Aggrieved over the said action of the respondents, this writ petition has been filed with the aforesaid prayer seeking for compensation for the loss incurred by the petitioner.

4. Learned counsel for the petitioner submitted due to animosity by the neighbouring land owners of the petitioner along with some influential person the petitioner's house was demolished by alleging that it was constructed in the Government pathway instead of patta land. Further, he vehemently argued that only after proper verification by the respondents, the petitioner was permitted to avail benefits under the Kalaignar Veedu Vazhangum Thittam 2010-2016 and for which, an amount of Rs.1,00,000/- was refunded by the Government. While so, without ascertaining the aforesaid fact, the respondents have demolished the petitioner's concrete house and caused a great loss to her. However, he fairly submitted that the petitioner's father filed a civil suit in O.S. No.143 of 2017 on the file of District Munsif Court, Harur,



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seeking for permanent injunction, which is pending. Subsequently, in the said suit, I.A. No.853 of 2017 has been filed to measure the property and an Advocate Commissioner has also been appointed who had submitted a report. The respondents, without considering all these aspects, have demolished the petitioner's building illegally, hence, he prays before this Court for issuance of appropriate directions to the respondents to pay adequate compensation to the petitioner in the above regard.

5. Per contra, Mr. M.Alagu Gowtham, learned Government Advocate appearing for the respondents 1 to 3, by reiterating the averments in the counter affidavit submitted that by way of misleading facts, the petitioner had availed benefits under the said scheme. He submitted that when it came to light that the house was constructed in a land belongs to the Village Panchayat, after due notice, the said building was demolished by the official respondents, which is legally valid. Moreover, he would submit that the petitioner has already filed a suit in O.S. No.143 of 2017 before the District Munsif Court, Harur, which is pending and in such a situation, he prays for dismissal of this writ petition.

6. This Court heard the undivided arguments made by the learned counsel on both sides and perused the materials placed on record.



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7. Admittedly, the petitioner had availed benefits of the scheme mooted by the Government namely Kalaigiar Veedu Vazhangum Thittam 2010-2016 and also put up a construction of RCC roof concrete house. It is also not in dispute that as per the said Scheme, Rs.1,00,000/- was paid by the Government to the petitioner towards subsidy. Further, it is also an undisputed fact that the petitioner has completed the construction by availing the subsidy. While so, the respondents have demolished the said concrete house on the ground that it was constructed not in a patta land but in the pathway belonged to the Government.

8. Now the issue is whether the concrete house is constructed by the petitioner in the patta land or in the Government Pathway and before demolishing the said house, proper notices were served by the respondents or not.

9. Be that as it may. The records reveals that the petitioner has filed the suit in O.S. No.143 of 2017 seeking for permanent injunction, which is pending on the file of District Munsif Court, Harur. Also it reveals that subsequently I.A. No.53 of 2017 was filed to measure the property and the



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learned Advocate Commissioner has also submitted a report in this regard.

That being the position, rendering any opinion will affect the interest of the parties. Hence, it is left open to the petitioner to canvass all those points raised in this writ petition before the Civil Court to seek his appropriate remedy.

10. For the aforesaid reasons, this Court, without going into merits of the case, disposes this writ petition by granting liberty to the petitioner to seek appropriate remedy before the District Munsif Court, Harur, where O.S. No.143 of 2017 is pending. Further, the petitioner is also granted liberty to file a fresh suit seeking for payment of adequate compensation from the competent authorities for the loss incurred by him. No costs.

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Index: Yes/ No

Speaking order / Non speaking order

Neutral citation : Yes / No

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M. DHANDAPANI, J.

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To

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Dharmapuri District.

2. The Tahsildar,
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