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W.P.No.32676 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.32676 of 2017
and
W.M.P.No.36000 of 2017

A.S.Philip

...Petitioner

Vs.

1.The Inspector of Police,
T3-Korattur Police Station,
Chennai.

2.The District Collector,
Thiruvallur District,
Thiruvallur.

3.The Officer cum Revenue Divisional Officer,
Appointed under the Act of Tamil Nadu,
Protection of Parents and Senior Citizen, 2007 Rules,
Ambattur.

4.Mrs.A.Esther Papa

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents 1, 3 or their men, agents, servants or anybody claiming or acting through them, from



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interfering with the petitioner's peaceful possession and enjoyment of the property at 33/90, Thanthai Periyar Nagar, MGR Street, Korattur, Chennai-80.

For Petitioner : Mr.B.Manimaran
For R1 to R3 : Mr.S.Ravichandran
Additional Government Pleader
For R4 : Mr.K.P. Sathish Kumar

ORDER

The relief sought for in the present writ petition is to forbear the respondents 1, 3 or their men, agents, servants or anybody claiming or acting through them, from interfering with the petitioner's peaceful possession and enjoyment of the property at 33/90, Thanthai Periyar Nagar, MGR Street, Korattur, Chennai-80.

2. The petitioner states that on 01.12.1992, the property at 33/90, Thanthai Periyar Nagar, MGR Street, Korattur, Chennai – 600 080 was allotted by Tamil Nadu Slum Clearance Board in favour of the 4th respondent, who is the mother of the writ petitioner. As per the said allotment order, the 4th respondent paid the cost of the property by way of monthly installments. The 4th respondent paid the EMI for 20 years. The



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father of the writ petitioner died on 26.08.2008, leaving behind his wife/4th respondent, 3 daughters and one son i.e., the petitioner.

3. The petitioner states that he is in occupation of the said property and the respondents 1 and 3 are attempting to dispossess the petitioner. The Revenue Divisional Officer passed an order on 16.11.2017, asking the authorities to evict the petitioner from the said property under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Thus, the petitioner is constrained to move the present writ petition.

4. During the relevant point of time, on 09.03.2017 at about 5:00 p.m., the Police authorities from Korattur Police Station, made an attempt to evict the petitioner from the premises. For all these reasons, the petitioner approached this Court.

5. It is not in dispute that the Revenue Divisional Officer / competent authority under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, passed an order in favour of the 4th respondent in proceedings dated 28.07.2017. The said order was passed based on the appeal filed by the 4th respondent, seeking possession of the



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property allotted in her name and more so, the monthly installments were also paid by the 4th respondent with the help of her deceased husband. The 4th respondent was thrown out from the house by her daughter-in-law and the petitioner, who is the son of the 4th respondent.

6. Therefore, the 4th respondent approached the competent authority under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. After adjudication, the Revenue Divisional Officer passed the order of eviction on 28.07.2017. The said order is not under challenge. Consequent to the said order, the Revenue Divisional Officer passed orders on 16.11.2017, addressing to the Assistant Commissioner of Police, Ambattur Circle, to evict the writ petitioner from the property and hand over the house to the 4th respondent as per the original order passed under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 in proceedings dated 28.07.2017.

7. Pertinently, the writ petitioner has neither challenged the original order dated 28.07.2017 passed under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 to evict the writ petitioner and the consequential order dated 16.11.2017, addressed to the Assistant



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Commissioner of Police to evict the petitioner from the premises and hand over the property to the 4th respondent. Contrarily, the petitioner has filed the present writ petition to forbear the respondents from interfering with his peaceful possession.

8. Since the writ petition was filed in the year 2017, in order to find out the present status, this Court directed the 1st respondent/The Inspector of Police, T3-Korattur Police Station, Chennai, to conduct an inspection and find out the present status. The 1st respondent / Inspector of Police submitted a report on 14.04.2023, stating that the petitioner is residing in the said premises along with his family. The 4th respondent was thrown out from her property and she is now residing along with her daughter at Venkatapuram, Chennai – 53.

9. In view of the facts and circumstances, the respondents 1 and 3 are directed to evict the writ petitioner from the premises at No.33/90, Thanthai Periyar Nagar, M.G.R Street, Korattur, Chennai – 600 080, within a period of two weeks from the date of receipt of a copy of this order and hand over the property to the 4th respondent/Senior Citizen, who is the original allottee of the said premises by the Tamil Nadu Slum Clearance Board.



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10. The learned counsel for the petitioner states that the petitioner preferred an appeal against the order of eviction. Therefore, the son or daughter of the Senior Citizen is not entitled to prefer an appeal under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

11. The eviction of the petitioner is to be carried out immediately and the property must be handed over to the 4th respondent/Senior Citizen as stipulated above, within a period of two weeks from the date of receipt of a copy of this order.

12. With the above directions, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes
Speaking order
Neutral Citation: Yes
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S.M.SUBRAMANIAM, J.

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