



Writ Petition No.34042 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22/2/2023

C O R A M

THE HONOURABLE Mr.JUSTICE N. SATHISH KUMAR

Writ Petition No.34042 of 2017

Pappathi

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Petitioner

Vs

1. State of Tamil Nadu
rep. By its Secretary to Government
Rural Development and Local Administration Department
Fort St. George
Chennai 600 009.
2. The Director of Municipal Administration
Municipal Administration Office
Chennai 600 005.
3. The Commissioner
Pollachi Municipality
Pollachi 642 001.

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Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified mandamus to call for the records relating to impugned order dated 2/8/2017 passed by the third respondent and quash the same and direct the third respondents to allot an alternative site with a house of similar dimensions (812 sq.ft) within the municipal limits of Pollachi town.



No.421, dated 23/8/1977, Municipality had passed a Resolution for sale of the house in favour of the petitioner's husband and by G.Os.No.701, RD & LA, dated 9/5/1979, the Government had approved the proposal of the Municipality.

3. Before the property could be transferred to the petitioner's husband, Municipality had proposed to construct houses, with the aid of HUDCO, for allotment of the same to the Municipal employees, at the time of their retirement. A Resolution was passed by the Municipality, in this regard, on 8/1/1981 and the same was also approved by the Government. When the petitioner's husband approached the Municipality, he was informed that he would be allotted a house in the complex to be constructed. As the Municipality has not acted on their assurance, petitioner's husband had filed a writ petition in W.P.No.7096 of 1982, to issue a writ of mandamus directing the respondents therein, to implement Resolution No.421 (G2/8710/77), dated 23/8/1977 of the first respondent, as affirmed by the orders of the second respondent, in G.O.Ms.No.701 (R.D & L.A) Department, dated 9/5/1979, within such time as may be prescribed by the order of this Court in so far as the petitioner in respective petitions are concerned.



4. On the basis of the assurance given by the Municipality in their counter to the effect that houses were to be constructed for Municipality employees and that the petitioner will be allotted site in the new housing Colony, this Court by an order, dated 25/6/1990, disposed of the writ petition.

5. Suddenly, husband of the petitioner died on 13/12/1988. As the petitioner started facing problems, she moved the Court of District Munsif, Pollachi, in O.S.No.176 of 2000 and by judgment, dated 7/10/2005, passed a decree of permanent injunction against the Municipality not to evict the petitioner, without following due process of law. Thereafter, Notice, dated 30/3/2017 was issued claiming that the petitioner has not paid the rent, since April 2014 and the land is required for the construction of an integrated Court complex and hence asked her to vacate the premises within 15 days. On 8/7/2017, petitioner's house was demolished and she was forcibly vacated. Hence the petitioner submitted a representation, dated 28/7/2017 to the third respondent to restore the said property or in an alternate to allot a house of similar dimension. Since there was no response, petitioner has come forward with the present writ petition praying for the relief as stated therein.



6. The Commissioner, Pollachi Municipality has filed a counter, wherein it is stated that after the death of the petitioner's husband his son was given appointment as a Driver on compassionate ground. He was permitted to be in possession of the house. As he was transferred to Gobichettipalayam Municipality, he was not in occupation of the house from July 2014 and was not paying rent. Hence, Notice, dated 30/3/2017 was issued to him to vacate the premises. The respondent Municipality has allotted the house to the petitioner's husband on condition that he should handover the same as and when the same is required by the third respondent. Subsequently the Council passed a Resolution No.421 to sell the house to the petitioner and the Government also gave approval. Before the said Resolution could be implemented, it was decided by the Commissioner, Pollachi Municipality to obtain loan from HUDCO. Due to financial crunch, Scheme could not be implemented. Moreover, the land was handed over to the Judicial Department as per the orders of the first respondent. Hence seeks for dismissal of the writ petition.

7. Heard Mr.R.John Joseph learned counsel for the petitioner, Mr.K.Karthick Jegannath, learned Government Advocate for the respondents 1 and 2 and Mr.Anand learned counsel for the third respondent.



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8. The learned counsel appearing for the petitioner submitted that despite the fact that the petitioner's husband was granted lease, after his death, she has been thrown away from the premises, without providing any alternate accommodation. Therefore, the impugned order vitiates fundamental rights of the petitioner and hence, the same has to be set aside.

9. Whereas the learned counsel appearing for the respondents submitted that due process of law has been followed and proper notice has been issued. After taking possession of the houses in question, the same were demolished and the land in question was handed over to the Judicial Department, as per the orders of the first respondent.

10. I have perused the entire materials available on record.

11. From the materials available on record, it appears that the petitioner's husband was originally employed in Pollachi Municipality, as Driver was permitted to be in possession of the house, as tenant. After the death of the petitioner's husband, son of the petitioner viz., Sakthivel was given appointment as Driver on compassionate ground and was permitted to



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be in possession of the house as tenant allotted to his father. Later, the son of the petitioner was transferred to Gobichettipalayam Municipality and he was not in occupation of the house from July 2014 and was not paying any rent.

12. When the Council passed a Resolution No.421 to sell the house to the petitioner's husband, Government gave approval. Before the said Resolution could be implemented, Pollachi Municipality had decided to obtain loan from HUDCO and construct houses to its employees. Due to financial crunch, the Scheme could not be implemented. Moreover, after the death of the petitioner's husband, her son was given appointment on compassionate ground. In such a view of the matter, the petitioner has no right to seek allotment of any alternate house to her.

13. It is relevant to note that the petitioner's husband was given only permission to reside in the property. Thereafter, it came to light that petitioner was not paying any rent from July 2014. After issuance of notice, dated 30/3/2017, the petitioner had sent a sum of Rs.11/- by way of Demand Draft and the same was returned to her.



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14. Notice dated 23/5/2017 was sent by the third respondent calling upon the petitioner to vacate and handover the possession within fifteen days. Since the petitioner did not vacate and handover the house, third respondent took possession of the said house and demolished the same. Moreover, the land was handed over to the Judicial Department for construction of Court complex as well as Quarters for the Judges.

15. For the reasons stated above, this Court is of the considered view that the writ petition is devoid of merits and deserves dismissal.

16. Accordingly, this writ petition is dismissed. No costs.

22/2/2023

Index : Yes / No

Internet: Yes

Speaking/non speaking order

mvs.



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