



W.P.(MD)No.10421 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.10421 of 2014

and

W.M.P.(MD)No.16029 of 2018

1. Nammalvar
2. Jeyalakshmi
3. M.S.Sivapackiyam
4. K.Poonkodi
5. P.Manimekalai
6. S.Gurumoorthi
7. K.Subramanian
8. S.Muthusamy

... Petitioners

versus

1. The Secretary to Government,
Rural Development and Local
Administration Department,
St. Fort George,
Chennai – 600 009.
2. The Director of Town Panchayat,
Saidapet,
Chennai – 600 035.



W.P.(MD)No.10421 of 2014

WEB COPY

3. The District Collector,
Virudhunagar.

4. The Commissioner,
Vembakottai Panchayat,
Sivakasi Taluk,
Virudhunagar District.

5. The President,
Vembakottai Panchayat,
Sivakasi Taluk,
Virudhunagar District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records of the 4th respondent in Na.Ka.No.A3/502/2001 dated 25.06.2011 and quash the same and consequently, direct the 1st respondent to grant permission to the 4th respondent for selling the house bearing Door No.1/2 in Survey No.1885/5, D.No.2/16 in S.No. 1885/10, D.No.2/15 in S.No.1885/4 at Mamsapuram Post, Sivakasi Taluk, Virudhunagar District to the petitioners 1, 2 and 4 to 8 respectively as done in G.O.Ms.Rt.No.1745 Rural Development and Local Administration Department dated 06.09.1979 and further direct the 4th respondent to execute the sale deed in favour of the petitioners.

For Petitioners : Mr.A.Sivaji



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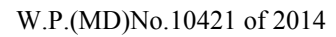
W.P.(MD)No.10421 of 2014

For R1 to R3 & R5 : Mr.S.Shaji Bino,
Special Government Pleader
For R4 : Mr.R.Velmurugan

ORDER

The first petitioner served as Office Assistant in a Government School and retired from service in the year 1998. The second petitioner served as Teacher in a Panchayat Union School and retired from service in the year 1993. The third petitioner's husband one late Sethuthevar served as Thalayari and retired from service in the year 1998. All the three worked under Vembakottai Panchayat Union. The petitioners 4 to 8 are daughters and sons of late Sethuthevar.

2. The case of the petitioners is that Vembakottai Panchayat had constructed some houses for their employees with the funds of the Central Government during the year 1958 and they have been accommodated in those houses for a meagre rent of Rs.10/- per month,



4 / 12



W.P.(MD)No.10421 of 2014

3. The learned counsel for the petitioners submits that some houses were constructed with the funds of the Central Government during the year 1958 and the petitioners are residing in those houses for more than two decades and they have also spent more than Rs.25,000/- for maintenance works in the schedule houses and they have also paid deposits for electricity service connection. The Central Government, in a letter No.H.113(5)54 dated 30.11.1964, recommended to sell the houses allotted to low income group to the inhabitants without any profit basis. Based on the said letter, some of the houses, similarly constructed at Rajapalayam, Coimbatore, Virudhunagar, Tuticorin Municipalities, were sold to the inhabitants. Therefore, in all fairness, the respondents ought to have given the houses for a sale consideration to the petitioners.

4. Per contra, the learned Special Government Pleader submits that the first petitioner retired from service in the year 1998 and the third petitioner's husband late Sethuthevar retired in the year 1991,



W.P.(MD)No.10421 of 2014

however, they have not vacated the Government Quarters. Therefore, the 4th respondent issued notice on 25.06.2001 to vacate the house.

Originally, the petitioners were paying Rs.10/- per month as rent and subsequently, the rents were increased to Rs.20/-, Rs.40/-, Rs.50/- and Rs.100/-. In spite of the notice dated 25.06.2001, the petitioners have not vacated the houses. On the contrary, they filed a suit in O.S.No.92 of 2003 before the District Munsif Court, Sivakasi, for mandatory direction to the Government Officials to obtain appropriate sale consideration from respective plaintiffs and execute sale deed with regard to respective schedule properties in their favour and the said suit was dismissed by a Judgment and Decree dated 25.02.2011.

5. The learned Special Government Pleader further submits that the first petitioner is still occupying the Government Quarters even though he had retired from service in the year 1998. The 2nd petitioner namely Jeyalakshmi had died. The petitioners 3 to 8 are still occupying the Government Quarters even though the 3rd petitioner's husband late



W.P.(MD)No.10421 of 2014

Sethuthevar retired in the year 1991. Out of 8 houses, 6 houses are damaged and no one are residing there. In the remaining two houses, the 1st petitioner and petitioners 3 to 8 are residing and they have not paid the rent of Rs.100/- from April 2013. Further, the petitioners have sent the rent through Demand Draft and the same was returned back to them. In spite of the notice dated 25.06.2001 the petitioners have not vacated the houses. In support of his contention, he also relied on a Judgment of this Court in W.A.No.1362 of 1998 dated 14.03.2000 and submits that the petitioners are not entitled to seek for any such relief and therefore, the writ petition is not maintainable.

6. This Court considered the rival submissions made and perused the materials placed on record.

7. Admittedly, the petitioners were retired employees of Vembakottai Panchayat Union. During their service, they were allotted these houses on rental basis of Rs.10/- per month, which was



W.P.(MD)No.10421 of 2014

subsequently increased to Rs.20/-, Rs.40/-, Rs.50/- and Rs.100/-. The petitioners have also retired from service. Since the petitioners have not vacated the houses after their retirement of service, the 4th respondent, by his order dated 25.06.2001, directed them to vacate the premise. In spite of that, the petitioners have not chosen to vacate the premises. However, they filed the suit in O.S.No.92 of 2003 before the District Munsif Court, Sivakasi, for the very same relief and the same was dismissed by its Judgment and Decree dated 25.02.2011. Since the petitioners have not challenged the said Judgment dated 25.02.2011, it has become final. Thereafter, the petitioners have filed this writ petition as against the order passed by the 4th respondent. Though the writ petition has been filed in the year 2014, it is kept pending without any progress for the past eight years. Taking advantage of the same, the petitioners continued to reside in those houses after their retirement for the past 8 years.



W.P.(MD)No.10421 of 2014

8. In the Judgment passed by a Division Bench of the Principal Seat in W.A.No.1362 of 1998, dated 14.03.2000, relied upon by the learned Special Government Pleader, it has been held as follows:

“2. The portion of the Scheme relied upon by the appellants reads thus:

“6. Assistance to local bodies : - Loans on the same term as in para 3(1) will also be made available by the Government of India to the State Government for disbursement to local bodies or housing their low paid staff. Loan assistance in this case will however be limited to 80 percent of the actual cost of the house including land subject to maximum of Rs.2,900/- in other words the State Government or the Local Bodies will have to find the remaining 20 percent of the cost from their resources. The ownership of these houses will vest with the local bodies which may be rent them out to their paid staff.”

3. Local Bodies, who avail of the assistance provided under the scheme, besides having the benefit of the amount provided under the Scheme, will themselves



have to invest on the houses to the extent of 20% of the value. They are permitted to rent the houses to the low paid staff. The option given to the local body to sell it on an out right basis is not meant to confer a right on those employees to demand that the houses be sold to them.

4. The Scheme apparently is an one time Scheme and is not available to the Local Body perpetually. If the Local Body were to sell the houses build with the aid of the funds provided under the Scheme, they would then be left with nothing in terms of houses which can be allotted to their employees. The Scheme is not meant to be an additional benefit to the employees to receive a house at the end of the service, but is a Scheme which is meant to enable the Local Bodies to provide houses to their serving staff.

5. Learned counsel for the appellants submitted that the Local Body had in fact made a recommendation to the Government that the houses be sold, but, that the State Government had not taken any decision thereon. Learned Single Judge has held that there is no obligation on the part of the State Government to accede to the request of the Panchayat. The finding so recorded is in consonance with the terms of the Scheme.”



W.P.(MD)No.10421 of 2014

9. In view of the above orders passed by the Division Bench of the Principal Seat of this Court in W.A.No.1362 of 1998, dated 14.03.2000, this Court is not inclined to entertain this writ petition. The petitioners, who have been accommodated in the houses as employees and retired from service subsequently cannot claim it as a matter of right that it must be sold to them.

10. Therefore, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.04.2023

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NCC : Yes / No.

Index : Yes / No.

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11/12



WEB COPY



W.P.(MD)No.10421 of 2014

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