



W.P(MD)No.14752 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14752 of 2016

and

W.M.P(MD)Nos.10912 & 10913 of 2016

Mookiah

... Petitioner

Vs

- 1.The State represented by
The Secretary,
Home Department,
Secretariat,
Fort St.George,
Chennai – 9.
- 2.The Joint Chief Controller of Explosives,
Sasthri Bhavan,
Nungambakkam,
Chennai – 34.
- 3.The District Collector,
Virudhunagar District.
- 4.The Superintendent of Police,
Virudhunagar District.
- 5.The Revenue Divisional Officer,
Sivakasi,
Virudhunagar District.



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6.The Tahsildar,
Sivakasi Taluk,
Sivakasi,
Virudhunagar District.

7.The Inspector of Police,
Sivakasi East Police Station,
Sivakasi,
Virudhunagar District.

8.Jegadeesan

9.Maruthupandi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents officials to provide compensation of Rs. 50,00,000/- to petitioner and his family members who are victim of explosion and fire caused by the eighth respondent for the loss caused to the petitioner on 02.07.2016 by considering and disposing of petitioner's application dated 20.07.2016.

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mr.D.Gandhiraj
Special Government Pleader
for R.1 to R.7

Mr.G.Mohan Kumar for R.8

Mr.K.Vinayagan for R.9

ORDER

Heard both sides.



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2. The writ petitioner is a resident of Bharathi Nagar, Sivakasi. The adjacent house was owned by the ninth respondent. The eighth respondent was a tenant therein. The eighth respondent had sold raw materials that are used in making fire crackers. On 02.07.2016, at around 09.15 p.m, an explosion took place in the adjacent building. The petitioner's house also felt the impact. The petitioner's house building was totally destroyed. In this regard, Crime No.497 of 2016 was registered on the file of Sivakasi East Police Station.

3. The case of the petitioner is that the authorities ought not to have permitted such unlicensed activities to have taken place. Since on account of the gross negligence and omission on the part of the authorities, the occurrence had taken place, the petitioner wanted the Government to pay compensation of Rs.50,000/- (Rupees Fifty Thousand only) to him. Since the petitioner's representation was not considered, the present writ petition came to be filed.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.



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5. The official respondents have filed counter affidavit and the learned Special Government Pleader took me through its contents. The tenant as well as the building owner of the adjacent building have filed independent counter affidavits and the respective counsel reiterated the stand set out therein.

6. I carefully considered the rival contentions and went through the materials on record.

7. The ninth respondent / owner of the adjacent building was also originally shown as an accused in Crime No.497 of 2016 on the file of the seventh respondent. Later, it came to be known that except owning the building, the ninth respondent has not committed any other tortious act. He was, therefore, relieved from prosecution.

8. I am therefore of the view no relief can be granted in this writ petition against the ninth respondent. As regards the state Government, it is seen that a sum of Rs.95,100/- (Rupees Ninety Five Thousand and One Hundred only) was paid to the wife of the writ petitioner on 12.07.2016. The petitioner was running a joint family. There were as many as seven families. Taking into account this aspect of the matter, the Tamil Nadu Slum Clearance Board allotted as many as seven tenements (C1 to C7) in Block C, Anaiyur Village,



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Sivakasi. I am satisfied that the Government had discharged its part of his obligations. Considering the special facts and circumstances of this case, the allotment of the tenements in favour of the petitioner and other members of the family shall be confirmed. Such confirmation proceedings shall be issued by the competent authority within a period of six weeks from the date of receipt of a copy of this order.

9. As regards the eighth respondent, the materials *prima facie* indicate that he is at fault. Admittedly, the eighth respondent had stored raw materials inside his house and therefore, he must take absolute liability for all the ensuing consequences. However, in writ proceedings, it is not possible to give a direction against the eighth respondent. This is primarily because it is not possible to quantify the exact loss suffered by the petitioner. Evidence will have to be necessarily let in. I, therefore, relegate the petitioner to move the jurisdictional civil Court for claiming compensation against the eighth respondent. If any suit is filed within a period of three months from the date of receipt of a copy of this order, the same will be entertained without reference to limitation. It is not necessary that the present petitioner alone should be the plaintiff. The other aggrieved individuals can also join. If the plaintiffs are not in a position to pay the requisite Court fee, the suit to be filed by them in



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indigent capacity can be taken on file. If any such suit is filed, after the same is numbered, it shall be disposed of on merits and in accordance with law within a period of six months thereafter.

10. With this liberty to the petitioner to move the jurisdictional Court as against the eighth respondent, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

10.08.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

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G.R.SWAMINATHAN, J.

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