



W.P.No.11871 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE C.V. KARTHIKEYAN

W.P.No.11871 of 2024
and WMP.No.12962 of 2024

K. Sarala

... Petitioner

Vs

1. The District Collector,
Office of Collectorate Building,
Thiruvallur.
2. The Revenue Divisional Officer,
Thiruvallur.
3. The Commissioner of Police,
Avadi Range,
Avadi.
4. Shantha
5. Prathap @ Appu
6. Somu
7. Monish @ Mohan

.... Respondents



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Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus calling for the records pertaining to order in Na.Ka.No.52/2024/M4 dated 30.03.2024 passed by the 1st respondent and quash the same and direct the 1st respondent to conduct enquiry in complaint dated 09.09.2023 with respect to demolition of the petitioner house by respondents 5 to 7.

For Petitioner : Mr.S.Suresh

For Respondents : Mr.Vadivelu Deenadayalan
Addl. Govt.Pleader for R1 & R2
Mr.N.Naveen Kumar
Government Advocate for R3
Mr.M.Gnanasekar for R4 to R7

ORDER

This writ petition has been filed for issuance of a writ of Certiorarified Mandamus calling for the records pertaining to order in Na.Ka.No.52/2024/M4 dated 30.03.2024 passed by the 1st respondent and quash the same and direct the 1st respondent to conduct enquiry in complaint dated 09.09.2023 with respect to demolition of the petitioner



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house by respondents 5 to 7.
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2. Heard both sides and perused the materials available on record.

3. In the affidavit filed in support of the writ petition, it had been stated that the petitioner, daughter of the 4th respondent is a senior citizen and widow and living in a thatched hut at Plot No.3-A, Noombal Village, Ambattur Taluk, comprised in S.No.129, measuring 1261 sq.ft. However, it is fairly admitted that the petitioner is not the title owner of the said property. It is only claimed that the petitioner is paying electricity charges for the electricity connection which had been given and also paying property tax. Those documents do not confer to the title of the petitioner. The petitioner also placed reliance on unregistered settlement deed dated 18.10.2013, unregistered release deed dated 28.02.2014. Both those documents which are unregistered, cannot be examined by this Court for any purpose what so ever.



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4. It had been stated that on 17.07.2023, the 5th, 6th & 7th respondents had conspired with the 4th respondent who is the mother of the petitioner herein and had given a complaint through the 4th respondent to the 2nd respondent namely the Revenue Divisional Officer at Thiruvallur. The issue of conspiracy is an issue which will have to be examined by a Court through evidence. The fact is that the 4th respondent/mother of the petitioner had given a complaint taking advantage of the Maintenance and Welfare of the Parents and Senior Citizens Act, 2007 against the petitioner herein and an order has been passed under the said Act and subsequently, the 1st respondent/District Collector had passed a further order on 30.03.2024.

5. It is contended by the learned counsel for the petitioner that the portion in which the petitioner was residing was demolished and the 4th respondent is now residing in that particular place. It is contended that the petitioner must be re-granted possession. If the petitioner seeks possession, then, the petitioner will have to take advantage of the



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particular legislation which protects possession and grants right to those who are dispossessed from possession. It is also to be noted that the husband of the petitioner had filed a suit in O.S.No.183 of 2017 before the District Munsif Court, Ponnammallee seeking to protect possession and seeking a direction not to interfere with the possession. The District Collector is also a party to the said suit.

6. The husband having died, the petitioner had stepped into his shoes and therefore a suit is also pending seeking a right not to be dispossessed. In effect the same relief has been sought in the suit and practically the same relief has also been sought in this particular writ petition. There cannot be two parallel authorities examining the same issues. The quorum for the petitioner is different and in the writ Court particularly when title is not established and acting on a complaint given by a senior citizen, namely the mother of the petitioner, the respondents had taken a particular course of action, the petitioner having been dispossessed, cannot claim repossession by way of invoking Article 226 of the Constitution. The remedy of the petitioner would lie to a little



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extent by examining the provision of Specific Relief Act more specifically Section 6 of the said Act. Additionally, in the said suit O.S.No.183 of 2017 the petitioner can also seek mandatory injunction to be put back in possession.

7. I am not inclined to grant the relief sought for by the petitioner. It is contended that the house of the petitioner has been demolished but when the petitioner has not established title over the land, petitioner cannot claim that demolition is unlawful. The property vest with the authorities. The authorities have every right to take action.

8. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

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dpq
Index: Yes/No
Speaking order / Non speaking order



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To

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C.V. KARTHIKEYAN, J.

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