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W.A.No.1103 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR. JUSTICE P.DHANABAL

W.A.No.1103 of 2023
and C.M.P.No.11170 of 2023

B.Sasikala

.. Appellant

Vs

- 1.M.I.Mohamed Iliyas
- 2.The Deputy Commissioner of Police,
Kilpauk, Chennai-10.
- 3.The Assistant Commissioner of Police,
Ayyanavaram Range, ICF Police Station,
ICF, Chennai-49.
- 4.The Inspector of Police,
K2, Ayyanavaram Police Station,
Ayyanavaram, Chennai-23.
- 5.The Revenue Divisional Officer,
Revenue Divisional Office,
Padikuppam, Anna Nagar Extn.,
Chennai.



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6.The Tahsildar,
Office of the Tahsildar,
18/31, Palliyarasan Street,
Asperen Garden Colony,
Kumaran Nagar, Kilpauk,
Chennai.

7.Lisi Sunil

.. Respondents

Prayer: Appeal under Clause 15 of the Letters Patent against the order dated
03.04.2023 passed by the learned Single Judge in W.P.No.16846 of 2022.

For Appellant : Mr.Nissar Ahmed
Senior Counsel
for Mr.N.A.Nassir Hussain

For Respondents : Mr.M.Muthukrishnan
for respondent No.1

: Mr.A.Selvendran
Spl. Government Pleader
for respondent Nos.2 to 6

: Mr.T.L.Thirumalaisamy
for respondent No.7

: Mr.M.Jothimanian
for AG & OT



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JUDGMENT

(Order of the Court was made by S.S.Sundar, J.)

This appeal is directed against the order of the learned Single Judge dated 03.04.2023 in W.P.No.16846 of 202 filed by the first respondent herein for issuance of a writ of mandamus directing respondents 2 to 5 herein to enquire the appellant and the seventh respondent to identify the true legal heirs of late Immanuvel and family and hand over all the belongings of Immanuvel including car and bike available in the tenanted portion for the legal heir by making payment of the monthly rent from 16.09.2020 till the date of vacating the rented portion let out to late Immanuvel.

2. It is unfortunate to see the writ petition of this nature was entertained by the learned Single Judge.

3. 1. The brief facts that are not disputed are as follows:



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3.2. The first respondent, who is the petitioner in the writ petition, is the owner of the property situated at Door No.2, Police Manickam Street, Ayanavaram, Chennai. The said property is a residential building having ground plus two floors. The ground floor of the building owned by the first respondent/writ petitioner was given to one Immanuvel pursuant to the rental agreement dated 16.09.2020. The monthly rent agreed, as per the rental agreement, is Rs.23,000/-. It is admitted by the first respondent that a sum of Rs.2,30,000/- was paid as rental advance. Unfortunately, the tenant by name Immanuvel, who was residing in the ground floor, met with an accident. It is admitted that the said Immanuvel and his parents died on the spot. Knowing the death of Immanuvel and his parents, it appears that, some of his relatives intimated the death of Immanuvel to the first respondent. The appellant, who is the sixth respondent in the writ petition and the seventh respondent herein are close relatives of the said Immanuvel. Even after the death of the said Immanuvel, the premises of the ground floor, which was under occupation of the said Immanuvel, was kept under lock and key.



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4. The case of the first respondent is that he is unaware of the legal heirs of the deceased tenant Immanuvel. A complaint was lodged before the fourth respondent herein, which is in the nature of identifying the legal heirs of the deceased. Thereafter, the first respondent filed the writ petition to direct the official respondents to enquire the appellant and the seventh respondent herein to identify the legal heirs of late Immanuvel and hand over all the belongings of Immanuvel including the car and bike which are available in the tenanted portion. In the process, the first respondent's prayer is also for getting the amount which he is entitled to receive from the deceased as rent and rental arrears for the period from 16.09.2020.

5. It is true that respondents 6 and 7 in the writ petition, being appellant and respondent No.7 in the appeal, claim right over the properties which were owned by the deceased Immanuvel as legal heirs.

6. The learned Single Judge, on the admission of the appellant and the seventh respondent in the writ petition, held that they are also legal heirs of



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the deceased and directed them to pay arrears of rent payable to the first respondent from 2020. The said portion of the order is under challenge by the appellant and the stand taken by the appellant is also supported by learned counsel for the seventh respondent. The learned Single Judge has passed an order on the basis of the concession of learned counsel for appellant and the seventh respondent to the effect that they will find suitable place to store the belongings of the deceased, which were available in the first respondent's premises. The learned Single Judge passed the following order:

“5. In view of the consent expressed by the learned counsel for the petitioner and the learned counsels appearing for the respondents 6 and 7, this Court, directs the respondents 6 and 7 to find out a common place within a period of two weeks from the date of receipt of a copy of this order, thereafter, the Tahsildar, Ayanavaram, is directed to shift the entire belongings of the deceased Immanuvel to the place identified by the respondents 6 and 7 and seal the premises and possess the key till the dispute is resolved in between the respondents 6 and 7 and other eligible persons. Further, the respondents 6 and 7 is



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directed to pay the arrears of rent payable to the petitioner within a period of two weeks from the date of receipt of a copy of this order.”

7. This Court is unable to sustain the order of the learned Single Judge for the following reasons:

(a) First of all, the writ petition is not maintainable when the official respondents are not obliged under any statute or under any law to comply the directions sought for. A writ petition will not lie to enforce contractual obligations of private parties.

(b) The first respondent, who is a landlord, on the admitted facts, can at best approach the Civil Court to get appropriate relief impleading all legal heirs of the deceased Immanuvel. Merely because, the first respondent is not aware of every other legal heirs of the deceased, he cannot approach this Court to identify the legal heirs by the officials and to seek orders from this Court.



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8. It is now reported that the appellant has hired a premises and shared the movables of the deceased in a rented premises. The key of the said premises is now available with the learned Administrator General and Official Trustee of Tamil Nadu [AG & OT] as per the directions of this Court.

9. It is the grievance and concern of the appellant that the appellant is made to pay a sum of Rs.15,000/- towards rent. It is also stated by the appellant and the seventh respondent that the appellant has paid Rs.1.00 lakh by way of rental arrears to the landlord. Similarly, the seventh respondent, who is also one of the distant relative of the deceased Immanuvel, has paid a sum of Rs.1.50 lakh to the first respondent. In all, the first respondent collected a sum of Rs.2.50 lakhs towards rental arrears.

10. Apart from the rental arrears, the appellant has also paid a sum of Rs.1.00 lakh towards rental advance to the new premises which has been



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hired by him for storing the movables. Similarly, the seventh respondent has also paid a further sum of Rs.50,000/- towards rental advance.

11. Since the appellant and the seventh respondent are not Class-I heirs, it may not be possible for the Tahsildar to issue legal heirship certificate. However, the Tahsildar may hold an enquiry to find out the other relatives who may have a claim over the properties of the deceased. The Tahsildar, sixth respondent herein, is directed to hold enquiry and find out the near relatives of the deceased Immanuvel. It is open to the appellant and the seventh respondent in this appeal to give necessary information or details. After holding an enquiry, the Tahsildar may find out as far as possible the near relatives of the deceased and inform the same to the first respondent as well as appellant and the seventh respondent. It is for the first respondent and others to work out their remedy in accordance with law.

12. It is admitted that the deceased has left substantial properties. The first respondent may file a suit for recovery of arrears of rent from the



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legal heirs and he may also proceed against the estate of the deceased.

Since the appellant and the seventh respondent have now paid substantially to discharge the rental arrears to the first respondent as well as to hire a place for housing the articles and belongings of the deceased, it is open to them to file a suit for partition of all movable and immovable properties against the other legal heirs of the deceased and seek contribution from them. The parties can also file appropriate interlocutory application to preserve the properties.

13. The learned AG & OT, who is now holding the movable properties, is directed to issue notice to the known legal heirs of the deceased. If nobody comes forward to take the goods/articles in common interest of all the co-owners, the learned AG & OT is permitted to go for public auction of all the movables with prior intimation to the appellant and the seventh respondent in this proceedings or to the known legal heirs. The learned AG & OT is not personally liable for any damage. It is open to the parties to seek further direction from this Court, in case of any difficulty in



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the understanding of this order since the property has now been directed to be in the custody of the learned AG & OT by order of this Court.

14. Even though some of the legal heirs are not made as parties, any other legal heir, may also file an application for any clarification, if it is required, to protect the interest.

15. Accordingly, the writ appeal is allowed and disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.S.SUNDAR J.)

(P.DHANABAL J.)

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Index : Yes/No
NC : Yes/No
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