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W.P. No. 31182 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 31182 of 2023

and

W.M.P. No. 30811 of 2023

J.Mohana

... Petitioner

-VS-

1. The District Collector,
Singaravelar Maligai,
Chennai – 600 001.
2. The Commissioner of Police,
Greater Chennai,
EVK Sampath Salai,
Vepery,
Chennai.
3. The Sub Divisional Magistrate/Revenue Divisional Officer,
South Chennai Division,
Guindy,
Chennai – 600 032.
4. The District Social Welfare Officer,
8th Floor, Singaravelar Maligai,
Chennai – 600 001.
5. The Assistant Commissioner of Police,
Mylapore Police Station,
Chennai – 600 004.
6. The Inspector of Police,
E1 – Mylapore Police Station,
Chennai – 600 004.



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7. J.Suresh

8. S.Lekha

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Official First to Sixth Respondents to dispossess the Seventh and Eighth Respondents from their illegal occupancy inside the dwelling house of the Senior Citizen Petitioner to protect her from a decade long harassment, furthermore pain and mental agony caused to the Petitioner by the Seventh and Eighth Respondents within a time stipulated by this Court.

For Petitioner : Mr. K.Suriyaprabha

For Respondents : Mr. G.Nanmaran,
Special Government Pleader
(for R1 to R4)

Mr. V.Meganathan,
Government Advocate (for R5 & R6)

Mr. W.M.Abdul Majeed (for R7 & R8)

ORDER

Heard Mr. K.Suriyaprabha, Learned Counsel for the Petitioner, Mr. G.Nanmaran, Learned Special Government Pleader appearing for the First to Fourth Respondents, Mr. V.Meganathan, Learned Government Advocate appearing for the Fifth and Sixth Respondents and Mr. W.M.Abdul Majeed,



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Learned Counsel for the Seventh and Eighth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the case of the Petitioner that she is a senior citizen and she had made a representation dated 13.12.2021 along with her husband, viz., T.Jothi to the First Respondent to take necessary action against the Seventh and Eighth Respondents who are their son and daughter-in-law respectively and evict them from her house situated at 46/99, New Street, Mylapore, Chennai – 600004, but as it did not evoke any response, it has necessitated the filing of this Writ Petition. It is further stated that the husband of the Petitioner, viz., the said T.Jothi died on 24.10.2022 in the interregnum.

3. Learned Counsel for the Petitioner contends that the said representation has been made to the First Respondent invoking Rule 20(2)(i) of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009, which reads as follows:-

“20. Duties and powers of the District Collector.-

....

(2) It shall be the duty of the District Collector to,-

(i) ensure that life and property of senior citizens of the district



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are protected and they are able to live with security and dignity;

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4. The Sixth Respondent has filed a Status Report dated 06.12.2023 stating as follows:-

“3. It is submitted that one Mohana, W/i.T.Jothi, Petitioner/De-facto Complainant lodged a complaint before the Respondent Police in which stated that she and her husband are living in the terrace under Metal Sheet Roof. The Complainant have four children, among the four children the elder son and daughter-in-law named Mr.Suresh and Mrs.Lekha occupied their dwelling house and thrown them away from the portion even after they have constructed a very good dwelling house with all facilities, they occupied in their portion unlawfully. Since March 2014, they had started regular quarrels with us, using filthy language against them not even respecting the age and also not minding their poor health condition.

4. It is further submitted that the Complainant have been put on cruelty in all sorts by the presence of them and their



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henchmen, and it is to be noted that they are unable to live everyday of their old age life with fear of hurt, grievances and continuous mental agony causing by them. The Complainant son regularly gave a mental torcher to them. Hence, the complaint.

5. It is further submitted that based on the above complaint a C.S.R. was against in E-1 Mylapore Police Station in C.S.R. No. 1190 of 2023, dated 07.08.2023 by Tr.Kumar, the then Sub Inspector of Police and took up the Petition for enquiry.

6. It is further submitted that during the course of enquiry, the then Inspector of Police went to the Complainant house and enquired the following witnesses and recorded their statements

(i) Kasthuri – Relative of Complainant

(ii) Jayalalitha – Relative of Complainant

(iii) Ruthmuthabarnam – Tenant of Complainant

7. It is submitted that from the investigation, it reveals that there is 3 portion in 2nd Floor, among that the Complainant



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son is residing in one portion, Complainant residing in one portion and another portion has tented out by the Complainant to one Ruthmuthabarnam for monthly rent of Rs.3,000/-

8. It is submitted that during the course of investigation, the Complainant stated that she is residing with her husband in the Metal Sheet Rood house in 3rd Floor. But from the investigation, it reveals that the Complainant is residing in one portion in 2nd Floor. Apart from that there is no issue between the Complainant and her son.

9. It is submitted that now, the Petitioner filed this present Petition seeking to directing the Official Respondents First to Sixth to dispose the Seventh and Eighth Respondents from their illegal occupancy inside the dwelling house of the Senior Citizen Petitioner to protect her from a decade long harassment, furthermore pain and mental agony caused to the Petitioner by Seventh and Eighth Respondents within a time stipulated by this Court.



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10. It is submitted that after received the Petition, the Respondent Police regularly watching the Complainant house and maintained the Patta Book and regularly asked the Complainant whether there is any issue. Still date there is no problem between the Complainant and her son and their whole family.”

5. Having regard to the limited nature of relief sought, this Court without expressing any view on the merits of the controversy involved, passes the following order:-

- (i) the First Respondent shall immediately examine the representation dated 13.12.2021 made by the Petitioner including ascertaining as to whether the Petitioner is a senior citizen and would be entitled for the relief claimed;
- (ii) if it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 3 working days for the same;
- (iii) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal



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hearing to all persons concerned including the Petitioner and the Seventh

and Eighth Respondents to explain their position in that regard; and

- (iv) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated to the concerned persons by 30.06.2024 under written acknowledgment.

In the result, the Writ Petition is disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petition is closed. No costs.

22.01.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 22.05.2024.

vjt

To

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P.D. AUDIKESAVALU, J.

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