



W.P(MD)No.20498 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.20498 of 2018
and
W.M.P(MD)Nos.18241 & 18242 of 2018**

K.Ani

... Petitioner

VS.

1.The District Collector/Project Director,
District Rural Development Agency,
Kanyakumari District @ Nagercoil.

2.The Block Development Officer,
Thiruvattar Panchayat Union,
Kanyakumari District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned notice passed by the second respondent herein against the petitioner in his proceedings vide A2/2930/2010, dated 19.09.2018 and quash the same as illegal.



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For Petitioner : Mr.B,Brijesh Kishore
For Respondents : Mr.V.Nirmal Kumar
Government Advocate

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The petitioner has filed the present Writ Petition, to quash the impugned notice issued by the second respondent, dated 19.09.2018.

2.According to the petitioner, the Tamil Nadu Government has issued G.O during the year 2009 for the formation of Samathuvapuram and decided to form 30 new Samathuvapuram in Tamil Nadu. The beneficiaries list was released by the first respondent during the year 2013. The petitioner belongs to Scheduled Caste Community and in the above beneficiary list, his name was found as serial No.17. Accordingly, the petitioner was allotted House No.42 in the said Samathuvapuram. Even though his name was found in the beneficiaries list, no separate order was passed to him so as to enable him to occupy in the said house. Hence, the petitioner made a representation before the authority concerned. In response to the same, the second respondent, vide proceedings dated

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18.06.2013, stated that houses has been allotted to the beneficiaries, according to the beneficiaries list released by the first respondent. According to the petitioner, the second respondent permitted him to occupy in House No.42 and accordingly, he occupied in the said house on 06.09.2018. However, the Special Officer has made a complaint before the second respondent alleging that the petitioner has occupied in the said House No.42 illegally. Hence, the second respondent issued the impugned notice, dated 19.09.2018. Challenging the said impugned order, the petitioner has filed the present Writ Petition.

3.The learned counsel appearing for the petitioner would submit that without giving an opportunity to the petitioner, the impugned notice, dated 19.09.2018 has been issued by the second respondent.

4.A detailed counter-affidavit has been filed by the second respondent, wherein it is stated as follows:

'7.The petitioner did not produce his real identity and source of income to the respondents before the allotment of house at Pechiparai Samathuvapuram in his name. The petitioner hide all the material facts and fraudulently applied for the



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allotment of the house at Pechiparai Samathuvapuram. So the petition itself is not maintainable for suppression of material facts. Firstly, the petitioner hide that his wife is a Government servant and draws monthly salary from the Government of Tamil Nadu early from the year 2012 where the allotment was made in the year 2013. Secondly the petitioner did not approach this Court with clean hands because he did not forward to this Court when his name included in the list but not accepted by the respondents because of ineligibility and he himself took law in his hand and break open the house No.42 at Pechiparai Samathuvapuram illegally and got illegal possession which cannot be accepted and he has to be sent out from the illegal possession. Thirdly the petitioner suppressed that he is living with his wife and for the sake of the house allotment he stated that he is residing with his mother at house No.42 of Pechiparai Samathuvapuram. Fourthly, no permission was given by the respondents after detecting the malpractice and fraud made by the petitioner, the petitioner himself against law break open the house entered into the possession of the house illegally. Over all, the petitioner suppressed all the material facts and without any legal means he entered into the possession of the subjected house and it is the duty of the respondents to vacate the petitioner from the house stated supra.'



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5.The learned Government Advocate appearing for the respondents would submit that since the petitioner break open the door of the house in question and took illegal possession of the same on 06.09.2018, the second respondent preferred a complaint before the Inspector of Police, Pechiparai to take appropriate action against the petitioner. On 12.09.2018, the Commissioner of Thiruvattar Union also sent a reminder to the Inspector of Police, Pechiparai to initiate action against the illegal activity of the petitioner. Subsequently, the second respondent issued the impugned notice, dated 17.09.2018, to the petitioner to vacate the house.

6.On a perusal of the materials available on record, it is seen that the petitioner has illegally entered into the House No.42 and occupied the same and a complaint has also been given in this regard. Further, the petitioner has not produced any material to show that the said House No.42 has been allotted to him. Therefore, we are not inclined to accept the contention of the petitioner that sufficient opportunity has not been provided to him to substantiate his claim. Accordingly, there is no merit in the Writ Petition and the same is dismissed. However, two weeks time is granted to the petitioner to vacate from the aforesaid premises, failing



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which, the authority concerned is directed to take necessary action for evict the petitioner from House No.42 with the assistance of Police. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] [R.V.,J.]
27.02.2024

NCC : Yes / No
Index : Yes / No
ps

To

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Kanyakumari District @ Nagercoil.
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and
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ps

ORDER MADE IN
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