
(1995) 06 MAD CK 0005
In the Madras High Court
Case No : Writ Petition No. 8194 of 1995

M. Lakshmanan

APPELLANT

Vs

The Tamil Nadu Housing Board

RESPONDENT

Date of Decision : 30-06-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1995) 2 CTC 396 : (1995) 2 LW 794

Hon'ble Judges : Jagadeesan, J

Bench : Single Bench

Advocate : Rita, for Aiyar and Dolia, for the Appellant;

Final Decision : Dismissed

Judgement

Jagadeesan, J.—The Petitioner has filed this Writ Petition to call for the records of the order bearing B3/9964.A/93 dated 10.5.1995. on

the file of the Second Respondent and quash the same. It is the case of the petitioner that he had been in occupation of the Plot No. 592, 29th

Cross Street, Indira Nagar Madras - 20 by trespassing the same. It is the admitted case that the petitioner is not in possession of any authorised

order from the Housing Board for occupation of the said Plot. When the authorities issued notice for eviction, he filed a Writ Petition in W.P. No.

3516 of 1995 before this Court. This Court has passed an order that the respondents are entitled to evict the petitioner, after giving an opportunity.

Accordingly, after the disposal of the writ Petition, the petitioner was given an opportunity and the petitioner has submitted the explanation.

2. In the explanation, the petitioner has stated that he had been in possession of the said plot for the past twenty years and he has no other plots to

reside and if he is evicted from the place, himself and his family members will be

put to great difficulty. He has also put up a thatched shed in the said plot. After hearing the petitioner, the second respondent herein passed an order calling upon the petitioner to vacate the plot and hand over vacant possession. In this Writ Petition, the said order is being challenged.

3. It is the admitted case of the petitioner that he is not in possession of any authorisation from the Housing Board. Merely because, he has trespassed into the property and in possession for the past twenty years, he cannot claim a special treatment. When the possession and enjoyment of the petitioner is unlawful, it is always open to the respondents, who are owners of the site, to take action against such trespassers. The request of the petitioner that he is willing to purchase the property cannot be conceded to, as it will amount to putting the cart before the horse. The petitioner having trespassed into the property, is now trying to coerce the landlord to sell the property without parting with the possession. Such a conduct cannot be appreciated.

4. It has been held in a case *Nellai Friends Volley Ball Club Rep. by P. John v. The Government of Tamil Nadu and two Ors.*, reported in 1987 WLR 377 that a rank trespasser cannot be permitted to approach the Court under Article 226 of the Constitution of India. Hence the impugned order is quite legal and valid. Accordingly, the Writ Petition is dismissed.

5. At the request of the counsel for the petitioner, the Petitioner is granted two months time to vacate and. hand over vacant possession of the site.