

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

The Hon'ble MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.32276 of 2015

P.Periasamy

.. Petitioner

Vs.

1.The Secretary to Government of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai-600 009.

2.The District Collector,
Thiruvallore District,
Thiruvallore.

3.The District Revenue Officer,
Thiruvallore District Collector Office,
Thiruvallore.

4.The Tahsildar,
Ambathur Taluk,
Thiruvallore District.

5.The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai-600 005.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records in the Proceedings No.Na.Ka.13691/2015/A1 dated 06.10.2015 on the file of second respondent.

For Petitioner : Mr.J.Saravana Kumar

For Respondents : Mr.STS.Moorthy

Government Pleader
assisted by

Mr.V.Shanmugasundar

Govt. Advocate for R1 to R4

Mr.B.Kesavan for R5

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petition was filed alleging that the petitioner's properties are in S.No.1052 and not in S.No.959, though the District Collector present on the last date disputed this position. It is in those circumstances that the counter-affidavits were directed to be filed.

2. The fifth respondent/Tamil Nadu Slum Clearance Board has filed the counter-affidavit stating that the Tamil Nadu Urban Development Project (TNUDP) Scheme viz., "Erikkarai Gandhi Nagar" in S.No.959/Part of an extent 1.25.0 Hectares, S.No.1052/1Part of an extent of 0.11.0 Hectares and S.No.1052/2Part of an extent 0.03.5 Hectares with restricted scheme area of 1.39.50 Hectares, layout was approved by the CMDA and allotment were issued to 106 allottees. In this behalf, it is stated that land alienation process is still under way. But it is affirmed that the petitioner is not related to the scheme area. The reason for this is stated in paragraph 2 as under:-

"2. During the initial years of TNUDP scheme 1992, proposal was initiated to form a TNUDP scheme, in S.No.1052/part. Namely station Road scheme. A layout was prepared for 73 plots and got approved by CMDA. In order to take up a scheme the residents should cooperate and accept the scheme and pay a minimum amount earmarked by board as IDP. In this case out of 73 plots only 19 residents came forward to pay IDP which amounted to Rs.4067/- while the others denied to pay money and accept the scheme. Hence though board anticipating a positive response from the people just because their neighbours in the same and adjacent survey numbers came forward to cooperate with board towards scheme implementation, got plans approved from MMDA was forced to drop the proposal of taking up development work in station road area due to reluctance and opposition of dwellers. Therefore, Board did not request government for the alienation of the area from the Revenue Department."

Similarly, in paragraphs 3 to 5, it is stated as under:-

"3. I submit that it is true that board got IDP from the petitioner for plot No.13. But mere payment of IDP doesn't confer allotment rights to the person who paid IDP. Board neither gave allotment orders or other rights in favour

of the petitioner for the plot. The facilities such as EB, ration card, Voter ID, property Tax etc, are not only done to the petitioner. Even all other dwellers who did not pay IDP have been provided with the above facilities by various department of government. Hence Board has nothing to do with the services provided to the petitioner.

4. I submit that the averments in para 4 are totally unacceptable because the total extent of S.No.959 of Korattur Eri is 6.34.5 Hect, and S.No.1052 battai poramboke is 1.01.10 Hect. Only an extent of 1.39.50 Hect, was requested by board for "Erikkarai Gandhi Nagar" scheme. Petitioner belongs to the other scheme area terms as "Station Road Scheme" which was proposed and dropped later.

5. I submit that the though Board initiated the scheme during 1993-94. As per layout condition minimum 70% of the beneficiaries should pay the Initial Down Payment (IDP). But only 19 dwellers out of 73 came forward to pay IDP. Hence board could not fulfill the prescribed criteria of the scheme which forced to discontinue the scheme and subsequently drop the scheme. Allotment were not made in anybody's name of and hence there is no avenue to think on sale deed in this case."

3. The eviction process is stated to have been initiated thereafter under Section 10 of the Tamil Nadu Land Encroachment Act, 1905. It is also averred that the slums were developed and the requirements of 70% of the dwellers having to come forward to accept the proposal and make the down payment have to be adhered to. Despite the survey being carried out and the approval of CMDA, only 19 families out of 73 families came forward to pay the Initial Down Payment (IDP) and thus, the Board dropped the scheme and none of the persons who paid the IDP were also given any allotment orders. It is their stand that the Board is ready to pay the amount of Rs.4087/- paid by 19 families back and that the land is still vested with the Revenue Department and that the TNUDP Scheme was brought to an end during 1997 and there is no scheme to be implemented.

4. The aforesaid, in a sense put an end to the controversy. But the learned counsel for the petitioner pointed out some connected writ petitions, where similar issues were raised, being W.P.Nos.34190 to 34192 of 2015. This Court has passed orders on 29.10.2015 rejecting those writ petitions and

the petitioners therein have preferred Special Leave Petition (Civil) Nos.32323 - 32325 of 2015, which were listed on 20.11.2015. It is stated that the order is not available, but the Special Leave Petitions have been disposed of by the Hon'ble Supreme Court with some observation that the petitioners therein have liberty to approach the second appellate authority, uninfluenced by the orders passed in those petitions. It is stated by the learned counsel that those petitioners will thus follow the course of action and so will the petitioner herein.

5. The writ petition, accordingly, stands disposed of.
No costs.

Sd/
ASSISTANT REGISTRAR (CS-V)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

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To

- 1.The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-600 009.
- 2.The District Collector,
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Thiruvallore.
- 3.The District Revenue Officer,
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- 4.The Tahsildar,
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- 5.The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai-600 005.

+1 CC to MR.J.Saravana Kumar Advocate. SR.NO. 63460
+1 CC to MR.B.Kesavan Advocate. SR.NO. 63156

W.P.No.32276 of 2015

CO-MG

JD 09/12/2015