



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2015

CORAM

THE Hon'ble Mr.JUSTICE M. DURAISWAMY

W.P.No.56 of 2015

and

M.P.Nos.1 and 2 of 2015

P. Krishnan

...Petitioner

vs

1. The Tamil Nadu Housing Board,
rep by its Managing Director,
Anna Salai, Nandanam,
Chennai-600 035
2. The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Anna Nagar Division,
Thirumangalam Shopping Complex,
Chennai-600 101
3. The Chennai Metropolitan Development Authority (CMDA),
rep by its Member Secretary,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008
4. N.K.M.V.C.P. Rao
5. Colonel K. Malaiappan (Retd.),
(Respondents are impleaded as per
Orders dated 24.02.2015
in M.P.Nos.3 and 4 of 2015
in W.P.No.56 of 2015)



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6. Chennai Metropolitan Water Supply
and Sewerage Board (CMWSSB),
No.1, Pumping Station Road,
Chintadripet, Chennai - 600 002

(6th respondent is impleaded as per
Order dated 23.04.2015 in M.P.No.
5 of 2015 in W.P.No.5 of 2015)

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent comprised in his letter No.A.Na.Ko./Survey/3408/2009 dated 01.10.2014 and quash the same and consequently forbear the respondents, their officers, employees, subordinates, agents or any other persons claiming and/or acting under them from in any manner directly or indirectly interfering with the settled rights of the petitioner as the absolute owner of Flat No.383/4 and owner of 1504.6 square feet undivided interest on the basis of the orientation sketch dated 9.7.2009.

For petitioner :	Mr.Satish Parasaran
For R.1 & R.2 :	Mr.V. Anandamurthy
For R.3 :	Mr.Raja Srinivas
For R.4 :	Mr.P.J. Rishikesh
For R.5 :	Mr.R. Arumugam
For R.6 :	Mr.N. Ramesh

ORDER

The petitioner has filed the above writ petition seeking to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent comprised in his letter No.A.Na.Ko./Survey/3408/2009 dated 01.10.2014 and quash the same and consequently forbear the respondents from in any manner directly or indirectly interfering with the settled rights of the petitioner as the absolute owner of Flat No.383/4 and owner of 1504.6 square feet undivided interest on the basis of the orientation sketch dated 9.7.2009.



2. Heard Mr.Satish Parasaran, learned counsel for the petitioner and Mr.V. Anandamurthy, learned counsel for the respondents 1 and 2; Mr.Raja Srinivasan, learned counsel for the third respondent; Mr.P.J. Rishikesh, learned counsel for the 4th respondent; Mr.R. Arumugam, learned counsel for the 5th respondent and Mr.N. Ramesh, learned counsel for the 6th respondent.

3. The main grievance of the petitioner was that the impugned letter, issued by the second respondent, is against the principles of natural justice and hence liable to be set aside. Further, according to the petitioner, the impugned communication, in as much as it seeks to divest the petitioner and other similarly situated flat owners of their settled proprietary rights, also violates Article 300-A of the Constitution of India.

4. That apart, the petitioner also contended that the impugned order was passed without affording an opportunity of hearing and that no notice was served on the petitioner, prior to the passing of the impugned order.

5. On a perusal of the counter filed by the second respondent, it is clear that the second respondent has not issued any Notice to the petitioner, prior to the passing of the impugned order.

6. It is a settled position that the aggrieved party is entitled to notice prior to passing of an order, affecting his rights. When it is clear that no notice was served on the petitioner, the impugned order is liable to be set aside solely on this ground. The petitioner and the similarly placed flat owners are entitled to notice prior to passing of the order by the second respondent. Hence, I am of the view that the impugned letter dated 1.10.2014, issued by the second respondent, is liable to be set aside on the ground that the said letter has been issued without notice to the petitioner and the other similarly placed flat owners.

7. Accordingly, the impugned letter dated 1.10.2014 is set aside. The second respondent is directed to pass fresh orders, after issuing notice to the petitioner and to the respondents 4 to 6.

8. It is also open to the other aggrieved flat owners to file a petition before the second respondent in case of they having any



objection.

9. In these circumstances, the impugned order dated 1.10.2014, issued by the second respondent, is set aside and the second respondent is directed to pass fresh orders, after issuing notice to the petitioner and the respondents 4 to 6. In the case of the other flat owners, filing petitions before the second respondent, the second respondent is directed to consider the objection of the flat owners and decide the matter afresh and issue fresh order, on merits and in accordance with law.

10. With the above observation, the writ petition is allowed. No costs. Consequently, connected MPs are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sr

To

1. Managing Director,
The Tamil Nadu Housing Board,
Anna Salai, Nandanam,
Chennai-600 035
2. The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Anna Nagar Division,
Thirumangalam Shopping Complex,
Chennai-600 101
3. The Member Secretary,
The Chennai Metropolitan Development Authority(CMDA),
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008



4. Chennai Metropolitan Water Supply
and Sewerage Board (CMWSSB),
No.1, Pumping Station Road,
Chintadripet, Chennai - 600 002

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1 CC to Mr.V. Anandamurthy, Advocate SR.No. 32379

1 CC to Mr.P.J. Rishikesh, Advocate SR.No. 32197

1 CC to Mr.N. Ramesh, Advocate SR.No. 32153

1 CC to Mr.Satish Parasaran, Advocate SR.No. 32140

1 CC to Mr.R. Arumugam, Advocate SR.No. 32137

W.P.No.56 of 2015

GP (CO)

PSI (06.07.2015)