

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.6388 OF 2015

K.Ganesan

.. Petitioner

Vs

1. The Chairman,
Tamil Nadu Slum Clearance Board,
Kamaraj Road,
Chennai - 600 005.
2. The Managing Director,
Tamil Nadu Slum Clearance Board,
Kamaraj Road,
Chennai - 600 005.
3. The Estate Officer,
Estate Office - 8,
Tamil Nadu Slum Clearance Board,
Sivalingapuram,
K.K.Nagar, Chennai - 600 078.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the first respondent to make an allotment of tenement to the petitioner under economically weaker section category at Perumbakkam scheme in pursuant to the recommendation made by the third respondent on 05.06.2013.

For Petitioner : Mr.M.Elango

For Respondents: Mr.M.Perumal
Standing Counsel

O R D E R

Heard Mr.M.Elango, learned counsel appearing for the petitioner and Mr.M.Perumal, learned Standing Counsel appearing for the respondents.

2. The petitioner seeks for a direction upon the first respondent to make an allotment of tenement to the petitioner under economically weaker section category at Perumbakkam scheme in pursuant to the recommendation made by the third respondent on 05.06.2013.

3. The petitioner, along with one A.Ramachandran, earlier approached this Court by filing W.P.No.10687 of 2011 seeking for issuance of writ of Mandamus to direct the Slum Clearance Board as well as the Government to convert and allot the 212 tenements at Rani Anna Nagar, Chennai, to the Economically Weaker section category and allot one such tenement in terms of G.O.Ms.No.224, dated 29.10.2008 to him. This Court, after considering the submissions made on either side and taking note of the conditions contained in G.O.Ms.No.224, dated 29.10.2008, more particularly, Clause (3) of the said G.O., pointed out that in terms of the said clause, out of 848 tenements, after allotting the 636 tenements to the hut residents, the Board has to allot the remaining 212 tenements to economically weaker section category and also referred to the proceedings of the Chairman of the Slum Clearance Board dated 29.10.2013, from which, it was pointed out that the Board has considered the application of the petitioner to allot one tenement at Semmancherri or at Kannagi Nagar as per the terms and conditions. Therefore, this Court directed that it is for the authorities concerned to consider the application of the petitioner for allotment of tenement at any one of the place as expeditiously as possible. In the light of the fact that the time limit was not granted, the petitioner's request is still pending and the order and direction issued by this Court has not been complied with.

4. It is submitted by the learned counsel for the respondents Board that as on date there is no vacancy in Rani Anna Nagar, but so far as Semmancherri or Kannagi Nagar, similar applications filed have been deferred by the Government, since it is being developed pursuant to a scheme announced by the Government of India. One issue which has to be taken note by the respondents is the right of the petitioner stood crystallized pursuant to the earlier order dated 30.10.2013 in W.P.No.10687 of 2011. Therefore, even assuming that the Government has taken a decision to defer the matter, the right of the petitioner to get allotment of a tenement under the economically weaker section category in either one of the schemes at Semmancherri or Kannagi Nagar stood crystallized. Therefore, any subsequent development or decision taken by the Government will not affect the petitioner's case.

5. The only reason on which the petitioner's application was kept in abeyance is on the ground that no time limit was fixed. Nevertheless, this Court issued a positive direction to allot a tenement in any one of the places and suitable orders were directed to be passed as expeditiously as possible. Therefore, merely because

time limit has not been fixed, the Slum Clearance Board or the Government cannot flout the order of this Court, that too, when order has become final. Therefore, prima facie, the respondents are guilty of violating the earlier order passed by this Court. The respondents Board submitted that sofaras the respondents Board is concerned, they have placed the matter before the Government for consideration on 25.03.2015. Further, it has to be noted that the earlier order was passed on 30.10.2013 and even assuming that there is no time limit fixed, the reasonable time would be six months. Therefore, the instant case should be considered as a separate matter and whatever the proceedings pending in respect of any subsequent application will not be made applicable to the petitioner.

6. Accordingly, there will be a direction to the respondents to obtain appropriate orders from the Government and allot the petitioner a tenement under the economically weaker section category either at Semmancherri or at Kannagi Nagar or at Perumbakkam scheme within a period of eight weeks from the date of receipt of a copy of this order.

7. This writ petition is disposed of accordingly. No costs.
gg

-s/d-

Assistant Registrar()

True Copy

Sub-Assistant Registrar

To

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Tamil Nadu Slum Clearance Board,
Kamaraj Road, Chennai - 600 005.
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K.K.Nagar, Chennai - 600 078.

+ 1 cc to Mr.M.Perumal, Advocate SR 18715
+ 1 cc to Mr.M.Elango, Advocate SR 18054

mg(co)
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