

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.30677 of 2013

and

M.P.No.1 of 2014

M.Ramesh

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai,
Chennai - 600 005.

2. G.Savithiri Respondents

Writ petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the first respondent to consider and dispose of the petitioner's representation dated 03.10.2013 and pass orders expeditiously.

For Petitioner : Mr.J.Ram

For respondents : Mr.R.V.Balu,
for R1
Mr.J.Kamaraj,
for R2

ORDER

With the consent of both sides, the Writ Petition is taken up for final disposal.

2. The petitioner has come forward with the present Writ of Mandamus to direct the first respondent to consider and dispose of the petitioner's representation dated 03.10.2013.

3. The case of the petitioner is that plot No.2196, T.A.Anna Veedhi, II Street, M.G.R.Nagar, Chennai - 600 078 was allotted to the petitioner by the first respondent Board by way of allotment order in No.H1/193/93, dated 29.02.1993. The petitioner has also paid a sum of Rs.89/- to the first respondent Board. Since then, the petitioner has been in

absolute possession and enjoyment of the property as its absolute owner, without any hindrance. While so, the second respondent filed a suit in O.S.No.4833 of 1995 before the XII Assistant Judge, City Civil Court, Chennai, for declaration that the above said Plot No.2196 was allotted to her by the Tamilnadu Housing Board and directed the petitioner to handover the vacant possession of the said property, which is in actual possession of the petitioner. The said suit was decreed on 17.01.1997. Aggrieved over the same, the petitioner filed an appeal in A.S.No.59/1997 before the VI Additional Judge, City Civil Court, Chennai and the same was allowed on 21.01.1998. Thereupon, the second respondent filed the Second Appeal in S.A.No.803 of 1998 before this Court and the same was allowed on 06.04.2011. Thereby the judgment and decree passed in A.S.No.59 of 1997 was set aside and the judgment and decree passed in O.S.No.4833 of 1995, dated 17.01.1997 was confirmed. Based on that, the second respondent filed Execution petition in E.P.No.4517 of 2012 before the IX Assistant Judge, City Civil court, Chennai for delivery of possession of the said property together with thatched roof house erected thereon. The said E.P. was dismissed for want of sanction order by the Slum Clearance Board. But, actually the petitioner was in possession of the said property for several years. Since the petitioner had paid the requisite sum to the Tamil Nadu Slum Clearance Board, he is entitled to get the allotment. Hence, he has made a representation on 03.01.2013 along with all relevant documents to the first respondent Board to allot the Plot No.2196 in his favour. Even after receipt of the same, the first respondent has not passed orders so far. Hence, he has come forward with the present writ petition.

4. Heard the submissions of learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

5. The learned counsel for the second respondent has filed a counter by denying the averments in the petition and submitted that the second respondent was in absolute possession and enjoyment of the said property for several years. He also submitted that in the year 1969, the second respondent occupied the Government Puromboke Land measuring 880 sq.ft. and put up a hut and residing there along with her family members. She regularly received the 'B' memo notice from the competent authority and paid taxes regularly. On the basis of urban land development and with the help of World Bank Development Scheme, the first respondent inspected the M.G.R.Nagar area and took steps to allot the premises to the occupiers. The first respondent has allotted the occupied premises to the second respondent and numbered it as Plot No.2196, M.G.R.Nagar, Chennai - 78, vide letter dated 11.02.1994.

6. Subsequently, by a letter dated 06.04.1994 the first respondent directed her to pay the amount as specified in their letter and she has paid Rs.582, 2,500/- and 5,238/- vide Bill Nos.105165, 105164 and 105166 respectively on 14.03.1994. From the date of allotment, she is the absolute owner of the Plot No.2196, bearing door No.7, Anna Veethi, 2nd street, M.G.R.Nagar, Chennai - 78, measuring 0.77.5 sq. meter having its boundaries on the North by Gopal Nadar's land, East by Gangadharan and Malikavathi Site, South by 2nd lane and west by Ekambaram house and enjoying the house peacefully upto February 1995. Without her knowledge and consent, the petitioner herein unauthorizedly occupied 100 sq.ft thatched roof house with the help of rowdy elements and started residing there from March 1995 onwards. As the second respondent has got a decree in her favour, she opposed to allow this writ petition.

7. Considering the facts and circumstances and on perusal of entire materials available on record, I find that the second respondent is having a decree of declaration that she is the allottee of the subject land. While that being so, this court cannot give a direction to consider the representation of the petitioner. Therefore, I do not find any merit in the Writ Petition and the Writ Petition is liable to be dismissed.

8. Accordingly, this writ petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mrp
To

The Chairman, Tamil Nadu Slum Clearance Board,
Kamaraj Salai, Chennai - 600 005.

+1cc to Mr.J. Kamaraj, Advocate, S.R.No.14837
+1cc to Mr.J. Ram, Advocate, S.R.No.14704
+1cc to Mr.S.P. Prabhakaran, Advocate S.R.No.10614

JSV(CO)
EU(16/03/2016)

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