

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.Nos.28186 to 28194 of 2015

& M.P.Nos.1 to 3 of 2015 in each W.P.

S.Sugumaran .. Petitioner in W.P.28186 of 2015
K.Sundari .. Petitioner in W.P.28187 of 2015
S.Nazar .. Petitioner in W.P.28188 of 2015
M.J.Janakiraman ... Petitioner in W.P.28189 of 2015
M.J.Sekar .. Petitioner in W.P.28190 of 2015
M.J.Baskar .. Petitioner in W.P.28191 of 2015
T.C.Ethirajalu .. Petitioner in W.P.28192 of 2015
V.Karpoorammal .. Petitioner in W.P.28193 of 2015
S.Ravichandran .. Petitioner in W.P.28194 of 2015

Vs.

1. The Tamil Nadu Slum Clearance Board,
rep. by its Chairman,
Kamaraj Salai, Chennai-600 005.
2. The Estate Officer,
Estate Officer-III,
Tamil Nadu Slum Clearance Board,
Chennai-40. .. Respondents in all the
Writ Petitions

Writ Petition No.28186 of 2015 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the impugned order passed by the second respondent on 06.12.2012 and quash the same.

Writ Petition No.28187 of 2015 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the impugned order passed by the second respondent on 06.12.2012 and quash the same.

Writ Petition No.28188 of 2015 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the impugned order passed by the second respondent on 05.12.2012 and quash the same.

Writ Petition No.28189 of 2015 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the impugned order passed by the second respondent on 06.12.2012 and quash the same.

Writ Petition No.28190 of 2015 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the impugned order passed by the second respondent on 05.12.2012 and quash the same.

Writ Petition No.28191 of 2015 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the impugned order passed by the second respondent on 05.12.2012 and quash the same.

Writ Petition No.28192 of 2015 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the impugned order passed by the second respondent on 06.12.2012 and quash the same.

Writ Petition No.28193 of 2015 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the impugned order passed by the second respondent on 05.12.2012 and quash the same.

Writ Petition No.28194 of 2015 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the impugned order passed by the second respondent on 17.12.2012 and quash the same.

For Petitioners in all Writ Petitions : Mr.A.Selvendran
For Respondents in all Writ Petitions : Mr.R.V.Babu

COMMON ORDER

The petitioners have filed these Writ Petitions for issuance of Writs of Certiorari to call for the records of the respective impugned orders passed by the second respondent and quash the same.

2. The petitioners are slum dwellers residing in the lands in respective survey numbers at New Anna Nagar, Thanthai Periyar Nagar and Annai Sathya Nagar in Thirumullaivoyal Village, for number of years and are having Ration Cards. They are poor, downtrodden, socially and economically backward and below the poverty line and struggling for the basic needs like food, cloth and shelter. The title of the lands where the petitioners are residing, is with the first respondent pursuant to G.O.Ms.No.370, Revenue (CA.5(2)) Department, dated 09.07.1999, as per which, the lands to an extent of 7.69.0 hectares in the new Sub-Division No.866/9 covers three villages, namely New Anna Nagar, Thanthai Periyar Nagar and Annai Sathya Nagar in Thirumullaivoyal Village. The land delivery receipts were issued in favour of the first respondent on 29.01.2001 and subsequently, lay-out approval was also given in favour of the first respondent on 30.07.2004.

3. It is the further case of the petitioners that even prior to the transfer of title, the first respondent, in 1989, on permission from the District Collector, Kancheepuram, got the possession of the lands for development works under the Tamil Nadu Urban Development Project Scheme. In 1989 itself, notices were issued by the Executive Engineer of the first respondent, directing the petitioners to approach them and pay the initial deposits for issuance of pattas and accordingly, during 1989, the petitioners paid necessary deposits on the hope of getting house-sites in their names. Thereafter, several representations and reminders were sent to the respondents, but the allotment orders are not issued in favour of the petitioners till date. In March 2005, notices and pamphlets were issued to the residents informing the fact of obtaining planning approval and they were directed to approach the second respondent for remitting the entire amount. It is informed to the petitioners that on payment of full amount, the allotment orders will be issued. But the respondents have not come forward to receive the amounts and have not given any reply on the petitioners' personal representations.

4. It is the further grievance of the petitioners that on 04.04.2008, the first respondent directed the second respondent to inspect the sites and verify the initial payment details and residence proof for issuing lease/sale deeds to the residents and to send proposal for issuance of allotment orders. Even then, the second respondent did not take steps for issuance of allotment orders. Hence, the petitioners and others filed W.P.No.13202 of 2011 and W.P.No.29086 of 2012 and pursuant to the orders of this Court, dated 22.07.2011 and 31.10.2012 in the above said respective Writ Petitions, the allotment orders were issued partly for 1200 Sq.Ft., out of the total extent of 2400 Sq.Ft. and the petitioners are in possession of the remaining extent of lands and they have also paid the allotment fees. Till

now, the allotment orders were not issued for the remaining extent of lands.

5. It is further averred in the affidavits filed in support of the Writ Petitions that as per the said Scheme, the petitioners made initial payment for their respective plots in 1989 and at that time, entire extent of 2400 Sq.Ft. came under their respective Plots and subsequently, single plot comprising 2400 Sq.Ft. was divided into two Plots to the respective Writ Petitioners and the initial payments were made for the respective Plots. While so, the second respondent passed the impugned orders, rejecting the claim of the petitioners for allotment orders in respect of their Plots, towards 2400 Sq.Ft. on the ground that the petitioners have produced receipts only for one of the sub-divided Plots and not for the other sub-divided Plot. But the fact remains that the petitioners have paid amounts for the entire extent of lands, which is evident from old survey plans of the year 1989 and the authorities have failed to verify and call for the records of the old survey plans and they have simply called the petitioners to produce the proof for payments made. Even though the petitioners along with Association, approached the respondents several times and placed the materials that are in possession of the petitioners and requested the second respondent to review the impugned orders, till date, no orders are passed on those representations. Hence, the petitioners have filed these Writ Petitions for the reliefs stated supra.

6. When the Writ Petitions are taken up for consideration, it is submitted that in respect of similarly placed persons like that of the petitioners, the Tamil Nadu Slum Clearance Board issued the allotment orders for them, who have paid initial deposit in 1989 itself, whereas, the petitioners herein are not issued with the allotment orders.

7. Considering the submissions made by the learned counsel on both sides, though counter affidavit is not filed by the respondents to meet out the averments made in the Writ Petition, this Court is not inclined to quash the impugned orders. However, considering the facts and circumstances of the case, this Court is of the view that appropriate direction could be issued to the petitioners to submit fresh representations to the first respondent. Accordingly, the petitioners are directed to submit fresh representations to the first respondent, along with a copy of this order, with all relevant documents to show that they have paid the initial deposit in 1989 itself in respect of the extent of land allotted to them, within a period of two weeks from the date of receipt of a copy of this order and on receipt of such representations, the first respondent is directed to re-consider the claim of the petitioners made in their representations, after verifying the records. and pass

appropriate orders after giving an opportunity of hearing to the petitioners and other necessary parties and dispose of those representations, on merits and in accordance with law, within a period of six weeks thereafter. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioners and it is for the first respondent to consider the same.

8. With the above observations and directions, the Writ Petitions are disposed of. No costs. The Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

CS
To

1. The Chairman,
The Tamil Nadu Slum Clearance Board,
Kamaraj Salai, Chennai-600 005.
2. The Estate Officer,
Estate Officer-III,
Tamil Nadu Slum Clearance Board,
Chennai-40.

+9 ccs to Mr.R.V.Babu Advocate sr.nos.12229 to 12237
+1 cc to Mr.A.Selvendran Advocate sr.11923

सत्यमेव जयते

W.P.No.28186 to
28194 of 2015

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