

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2016

CORAM:

THE HON 'BLE MR.JUSTICE M.SATHYANARAYANAN

Writ Petition No.19675 of 2016

K.Joseph

... Petitioner

Versus

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

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, to direct the second respondent to dispose of the petitioner's representation dated 30.03.2016, in the light of the ratio laid down by this Court in the judgment, dated 30.07.2012, in S.Arokiam v. The Chairman, Tamil Nadu Slum Clearance Board, Chennai and other, in W.P.No.18999 of 2003, within a time frame fixed by this Court.

For Petitioner : Mr. P.V.Vinayakhamurthi

For Respondents : Mrs. D.Latha,
Standing Counsel

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner claims that he is an Ex-Serviceman in Indian Army and he got allotment of land from Madras Metropolitan Development Authority (MMDA, now CMDA) and he has also paid a sum of Rs.1,400/- on 10.07.1981 towards the cost of land transfer and he has also paid the property tax from the year 1989 to 1993 for the said land. It is further stated by the petitioner that the first respondent, vide proceedings, dated 07.04.1993, has also sent a proposal to the Estate Officer - III, Tamil Nadu Slum Clearance Board, Chennai - 39, for the payment of initial amount for the purpose of allotting

plot to the petitioner. Subsequently, a lease-cum-sale agreement, dated 01.08.1993 also effected and the petitioner was allotted Plot No.513, under Madras Urban Development Project-1, General Kumaramangalam Colony area, vide the proceedings of the first respondent dated 01.10.1993. The petitioner had also put up super-structure bearing Door No.36, ad-measuring to an extent of 2.24.0 sq.mts., at 34th Street, GKM Colony, Chennai - 82.

3. The grievance expressed by the petitioner is that though he has fulfilled all the formalities, the sale deed in respect of the said plot is yet to be executed by the respondents and in this regard, he has approached them very many times and made attempts in-person and also submitted representations, dated 04.07.2014 and 30.03.2016. Since no orders have been passed, the petitioner came forward to file this writ petition.

4. The learned counsel for the petitioner would submit that the petitioner is aged about 71 years and is suffering due to age related ailments and despite completing all the formalities, the sale deed is yet to be executed in his favour and prays for appropriate orders.

5. This Court heard the submissions of Mrs.D.Latha, learned Standing Counsel appearing for the Tamil Nadu Slum Clearance Board, who accepts notice on behalf of the respondents.

6. A single Bench of this Court, vide order dated 30.07.2012, in W.P.No.18999 of 2003 (Mr. S.Arokiam v. The Chairman and another) has considered the similar issue, as that of this writ petition, and it is relevant to extract paragraphs 44 and 45 of the said order, which reads thus:-

"44. Admittedly, the Slum Clearance Board has chosen to implement the Slum improvement programmes. It is also seen that the tentative project cost for the slum improvement programme was Rs.46.36 crores, in respect of 94,000 slum families over a period of 6 years in ten project cities, viz., Madras, Madurai, Coimbatore, Salem, Vellore, Erode, Tirunelveli, Tuticorin and Trichy. It cannot be contended that the petitioner or other slum dwellers, numbering 55,000 people throughout the State of Tamil Nadu, have unauthorisedly put up the constructions in the lands, contrary to any Government Orders. At this juncture, this Court is of the view that they cannot be termed as encroachers, as every thing done by the Slum Dwellers on the plots allotted to them, have been permitted to be done, by the Board. A specific promise has been held out to them by the Board, that the slum dwellers would be issued with sale

deeds on collection of land cost and developmental charges. But there is a failure on the part of the respondents in honouring their promise. The principles of promissory estoppel and legitimate expectation squarely applies to the facts of this case. The slum dwellers have been permitted to reside for a long number of years. Their houses cannot be pulled down. The education of the children cannot be disrupted and that the slum dwellers cannot be driven to some other place. Their long possession and enjoyment of the plots have been recognised by the Government and the Board. When the developmental works have been carried out under the World Bank and other financial sources, by identifying the slum areas throughout the State and after receiving the entire cost of the land, from 55,000 beneficiaries, at this juncture, it cannot be said that the project has made carried out in certain banned categories of lands and therefore, they cannot be issued with any sale deeds. As stated supra, the Government and the Board have found that there was good ground and justifiable reasons, to enter into the lands and spent huge amounts for development.

45. On the facts and circumstances of this case and considering the plight of the poor 55,000 Slum dwellers living in 120 slum development areas, who have not been issued with the Sale Deeds, even after the receipt of the entire sale consideration for the plots, allotted to them and in the light of the decisions, stated supra, a Mandamus is issued to the Secretary to Government of Tamil Nadu, Housing and Urban Development Department, Fort St. George, Chennai - 9, and the Managing Director, Slum Clearance Board, Chennai, to execute the sale deeds to the petitioner as well as to all the Managing Director, Slum Clearance Board, Chennai to the Government, the whole exercise shall be completed within a period of two months from the date of receipt of a copy of this order."

7. In the light of the facts and circumstances of this case and in the light of the decision, cited supra, this Court directs the second respondent to consider and dispose of the petitioner's representation, dated 30.03.2016, on merits and in accordance with law, in the light of the ratio laid down by this Court, in the order, dated 30.07.2012, in the case of S.Arokiam v. The Chairman, Tamil Nadu Slum Clearance Board, Chennai and another, in W.P.No.18999 of 2003, within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner.

8. The writ petition is disposed of, accordingly. No costs.

Sd/-
Assistant Registrar(VI)

//True Copy//

Sub Assistant Registrar

srk

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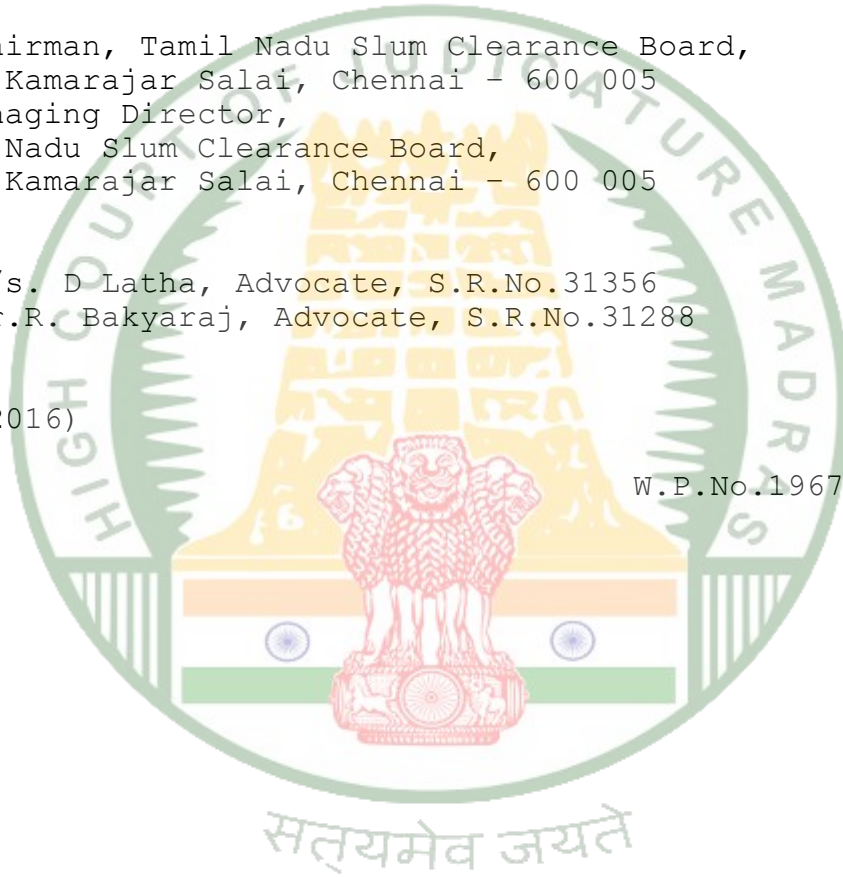
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+1cc to M/s. D Latha, Advocate, S.R.No.31356

+1cc to Mr.R. Bakyaraj, Advocate, S.R.No.31288

NR(CO)
EU(22/06/2016)

W.P.No.19675 of 2016



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