

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.26344/2016 & WMP.Nos.22582 & 22583/2016

B.Anbazhagan

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Petitioner

Versus

1.The Chairman

Tamil Nadu Slum Clearance
Board, Kamarajar Salai
Chepakkam, Chennai 600005.

2.The Estate Officer

Tamil Nadu Slum Clearance
Board, 83rd Street, Sivalingapuram
K.K.Nagar, Chennai 600078.

3.The Assistant Engineer

Tamil Nadu Slum Clearance
Board, Division No.6, Sub Division No.1,
No.2/124, North Usman Road
T.Nagar, Chennai 600 017.

4.Thiru M.Santhana Krishnan

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus calling for the records relevant to the order in Na.Ka.No.28/AA/2016/A.A.7 dated 21.04.2016 passed by the 2nd respondent and quash the same as illegal, improper, unreasonable, and principles of natural justice and thereby direct the respondents 1 to 3 to enable the petitioner to continue his peaceful possession and enjoyment of his residential premises situated at No.371/24, Tamil Nadu Slum Clearance Board Colony, Nehru Street, Kanagam, Tharamani, Chennai 600113.

For Petitioner : Mr.S.Gopalakrishnan
For RR 1 to 3 : Mrs.D.Latha

ORDER

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

2 The petitioner would submit that the property bearing Door No.371/24, Tamil Nadu Slum Clearance Board Colony, Nehru Nagar, Kanagam, Tharamani, Chennai-600113, was allotted in favour of one Subathra, wife of Thiru Ragavachari on 30.05.1998 vide proceedings of the 1st respondent and she was in possession and

enjoyment of the same. The said Subathra died on 22.06.2001 and thereafter, her legal heirs, through an unregistered Sale Deed dated 20.11.2009, has converted the said property in favour of one Mr.K.R.S.Kumar and he in turn, sold the same to one Mr.Mohanasamy on 30.10.2015 again by way of an unregistered Sale Deed from whom the petitioner had purchased the said property through an unregistered Sale Deed on 17.11.2015 and claims to be in possession and enjoyment. According to the petitioner, to his shock and surprise, the 2nd respondent has issued the impugned notice in Form-B dated 21.04.2016 under Rule 4 of the Tamil Nadu Slum Clearance Board [Control and Management of the Property] Rules, 1971, calling upon him to hand over vacant possession of the same. Challenging the legality of the said order, the petitioner has come up with the present writ petition.

3 The learned counsel for the petitioner would submit that the original allottee died as early as on 22.06.2001 and thereafter, the property has been the subject matter of alienation twice through unregistered Sale Deeds and in all fairness, the petitioner ought to have been put on notice and since it has not been done, the petitioner prays for appropriate orders.

4 This court heard the submissions of Mrs.D.Latha, learned counsel who accepts notice on behalf of the respondents 1 to 3 and also perused the materials placed before it.

5 A perusal of the materials would, prima facie, indicate that the death of the original allottee has not been intimated to the respondents and the legal heirs of the original allottee had alienated the property through unregistered Sale Deeds and admittedly, the petitioner had purchased the said property through an unregistered Sale Deed. It is the specific stand of the petitioner that the dues have been paid to the Tamil Nadu Slum Clearance Board by the original allottee/her legal heirs and the petitioner is in possession and enjoyment of the property along with his family and if he is called upon to vacate, he will be put to extreme difficulty and hardship and therefore, would pray that till the disposal of the representation submitted by him, further proceedings may be deferred.

6 Though the petitioner has prayed for a larger relief, this Court in the light of the facts and circumstances and without going into the merits of the same, directs the respondents 1 and 2 to consider and dispose of the petitioner's representation dated 21.04.2016 in accordance with law and pass orders within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner and till then, further decision is to be deferred in terms of the impugned communication / notice dated 21.04.2016.

7 The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The Chairman
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Board, Kamarajar Salai
Chepakkam, Chennai 600005.
 - 2.The Estate Officer
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 - 3.The Assistant Engineer
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Board, Division No.6, Sub Division No.1,
No.2/124, North Usman Road
T.Nagar, Chennai 600 017.
- +1 cc to mr.B.Gopalakrishnan, advocate,sr.42811.

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krd 16/8

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