

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.4878 of 2016

and WMP.No.4238 of 2016

Kesavan

.. Petitioner

vs.

1.The Secretary to Government,
Housing and Urban Development Department,
Secretariat,
Fort St.George,
Chennai-600 009.

2.The Secretary to Government,
Revenue Department,
Fort St.George,
Chennai-600 009.

3.The Secretary to Government,
Public Works Department,
Fort St.George,
Chennai-600 009.

4.The Managing Director,
Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai-600 009.

5.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to grant patta to the petitioner for his dwelling house situated at Southern Side of Elango Street, bearing Old No.58, New No.112, Govindaswamy Nagar, Raja Annamalaipuram, Chennai-600 028, in accordance with G.O.Ms.No.1117, Housing and Urban Development Department dated 27.06.1979 and as per G.O.Ms.No.163 Housing (F) Department dated 23.02.1973 and as per G.O.Ms.No.34, Revenue Department dated 23.01.2008 or under any relevant scheme, within a time frame.

For Petitioner : M/s.P.Solomon Francis
For Respondents : Mr.R.Govindasamy,
Special Government Pleader for R1 to R3

Mrs.D.Latha for R4
Mr.P.V.Selvakumar for R5

O R D E R

By consent this Writ Petition is taken up for final disposal.

2. The petitioner claims that he is in possession of land and building admeasuring to an extent of 335 Sq.Ft. at Old No.58/New No.112, Govindaswamy Nagar, Raja Annamalaipuram, Chennai-600028 and he is in possession and enjoyment of the same for over few decades and according to him, as per G.O.Ms.No.1117, Housing and Urban Development dated 27.06.1979, slum dwellers, who do not own house sites and have been residing in the slum on or before 30.06.1979, would be eligible for grant of conditional patta and the crucial date has been fixed as 30.06.1984. According to the petitioner, encroachments abutting the southern bank of Buckingham canal at R.A.Puram were identified for the rehabilitation with alternative housing sites, however the petitioner has prayed for issuance of patta in respect of land which he claims to be in possession and also submitted a representation dated 07.10.2015 to the respondents and since no response is forthcoming, came forward with this writ petition.

3. The learned counsel appearing for the petitioner would submit that since the petitioner is in possession of the land in question for very many decades, he is entitled to get patta and prays for appropriate orders.

4. Per contra, Mr.R.Govindaswamy, learned Special Government Pleader appearing for the respondents 1 to 3, Mrs.D.Latha, learned counsel appearing for the fourth respondent and Mr.P.V.Selvakumar, learned counsel appearing for the fifth respondent would submit that if at all the entitlement of the petitioner is to get alternative accommodation, since the area under encroachment is situated very near to water body and in the recent floods, problems had cropped up on account of water logging and the representation of the petitioner for issuance of patta in respect of land in his possession cannot be granted and prays for appropriate orders.

5. This Court has considered the rival submissions and also perused the materials placed before it.

6. Though the petitioner has prayed for larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in his representation or in this writ petition, directs the petitioner to submit a representation to the jurisdictional

Tahsildar, namely the Tahsildar, Mylapore-Triplicane, Greenways Road, Chennai-600028, within a period of two weeks from the date of receipt of a copy of this order and the said official, on receipt of the same is directed to consider and dispose of the same in accordance with law, after putting on notice the respondents 4 and 5 and pass orders within a further period of six weeks thereafter and communicate the decision taken, to the petitioner as well as the respondents 4 and 5 and till such time, the possession of the petitioner shall not be disturbed and he shall not create any third party rights in respect of the said property till such disposal.

7. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St.George,
Chennai-600 009.
- 2.The Secretary to Government,
Revenue Department,
Fort St.George,
Chennai-600 009.
- 3.The Secretary to Government,
Public Works Department,
Fort St.George, Chennai-600 009.
- 4.The Tahsildar,
Mylapore- Triplicane,
Greenways Road,
Chennai-600 028.

+1 cc to Govt.Pleader,sr.42420

+1 cc to Mr.P.Soloman, Advocate,sr.42478.

nr(co)

krd 11/8

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