

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2017

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.165 of 2010 and
M.P.No.1 of 2010 &
M.P.No.1 of 2014

1.Mrs.Neelavathy (Deceased)
2.G.Kasturi

2nd petitioner substituted in the place of the
deceased petitioner as per order dated
02.12.2011 in M.P.No.1 of 2011 in
W.P.No.165 of 2010 Petitioners

Vs

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

2.The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai, Chennai 600 005. Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records of the first respondent dated 23.12.2009 and made in Na.Ka.No.Nee.Aa2(4)/21634/2009 and quash the order of the first respondent and consequently direct the respondents to grant patta to the petitioner in respect of the Plot No.138, West Canal Bank Road, Kottur, Chennai 600 085, in terms of the rules of the Board.

For Petitioner : Mr.G.Ravi Sankar
For Respondents : Mr.R.V.Babu

O R D E R

Heard Mr.G.Ravi Sankar, learned counsel for the petitioner and Mr.R.V.Babu, learned counsel appearing for the respondents.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a writ of Certiorarified Mandamus, to call for the records of the first respondent dated 23.12.2009 and made in Na.Ka.No.Nee.Aa2(4)/21634/2009 and quash the order of the first respondent and consequently direct the respondents to grant patta to the petitioner in respect of the Plot No.138, West Canal Bank Road, Kottur, Chennai 600 085, in terms of the rules of the Board."

3. The case of the petitioner is as follows:-

The petitioner has been residing in the house situated at Plot No.138, West Canal Bank Road, Kottur, Chennai-600 085, along with her family members from 1970 onwards. On the basis of the possession of the petitioner, she had obtained Electricity connection and paying Electricity charges. The petitioner has also been paying local taxes and other taxes for the above said property. According to the petitioner, the said possession of the petitioner has not been disputed, on the other hand, it is admitted by the respondents.

4. In the above circumstances, the petitioner had applied to the respondents for regularising the possession. She had also put up a construction in the said property. According to her, a request for regularising the possession was under examination and consideration by the respondent Authorities. In fact, the petitioner was also given Identity Card No.407998 dated 23.03.1976, identifying her as a slum dweller. In consideration of the petitioner's request, the first respondent had issued a communication on 09.11.1992, addressed to the petitioner, directed her to pay a sum of Rs.1,28,084/- as a sale price for regularising the possession of the property enjoyed by the petitioner from 1970 onwards.

5. At this, the petitioner objected to pay the said amount, being a slum dweller, she was unable to pay such huge amount. However, she requested that the allotment may be made under Metropolitan Urban Development Scheme (MUDP) or Tamil Nadu Urban Development Scheme (TNUDP), in which case, she was required to pay only reasonable amount not the amount as stated in the communication dated 09.11.1992. In response to the request of the petitioner, the first respondent issued a communication on 23.12.2009 that such request was not acceptable and rejected her claim. The said communication is put to challenge in the present writ petition.

6. Upon notice, learned counsel appearing for the respondents, entered appearance.

7. The learned counsel for the petitioner would submit during the course of the arguments that the petitioner is

willing to pay the amount as directed by the first respondent in his communication dated 09.11.1992, viz., a sum of Rs.1,28,084/- with a reasonable interest, considering the economic status of the petitioner as being a slum dweller. On such payment, her possession and enjoyment of the property may be regularised by the respondents' Board, since admittedly the petitioner has been in possession and enjoyment of the property from 1970 onwards.

8. On the other hand, learned counsel for the respondents' Board would submit that the petitioner is not entitled to seek any concession under any scheme as the same is not applicable to her.

9. Nevertheless, de hors her submission, learned counsel for the petitioner had submitted that today the petitioner is willing to make the payment as directed by the first respondent with interest and therefore, this Court is of the view that there cannot be any valid objection to such offer of the petitioner. At the same time, learned counsel for the petitioner would urge this Court to impose a reasonable interest for the belated payment from 1992 till date, since the petitioner is being from lowest strata of the Society. The said submission made by the learned counsel for the petitioner appears to be fair and proper.

10. In the above circumstances, this Court directs the respondents to accept the payment of Rs.1,28,084/- from the petitioner. The payment will carry simple interest of 6% from the date of demand till the date of payment. On such amount being paid, the respondents shall pass consequential orders by regularising the possession and title of the petitioner in respect of the subject property.

11. The petitioner is directed to make the payment as agreed, within a period of 12 weeks from the date of receipt of a copy of this order. On the payment being made, the respondents are directed to pass orders to give effect to the above direction, within a period of 4 weeks from thereafter.

12. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gsk

To

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

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

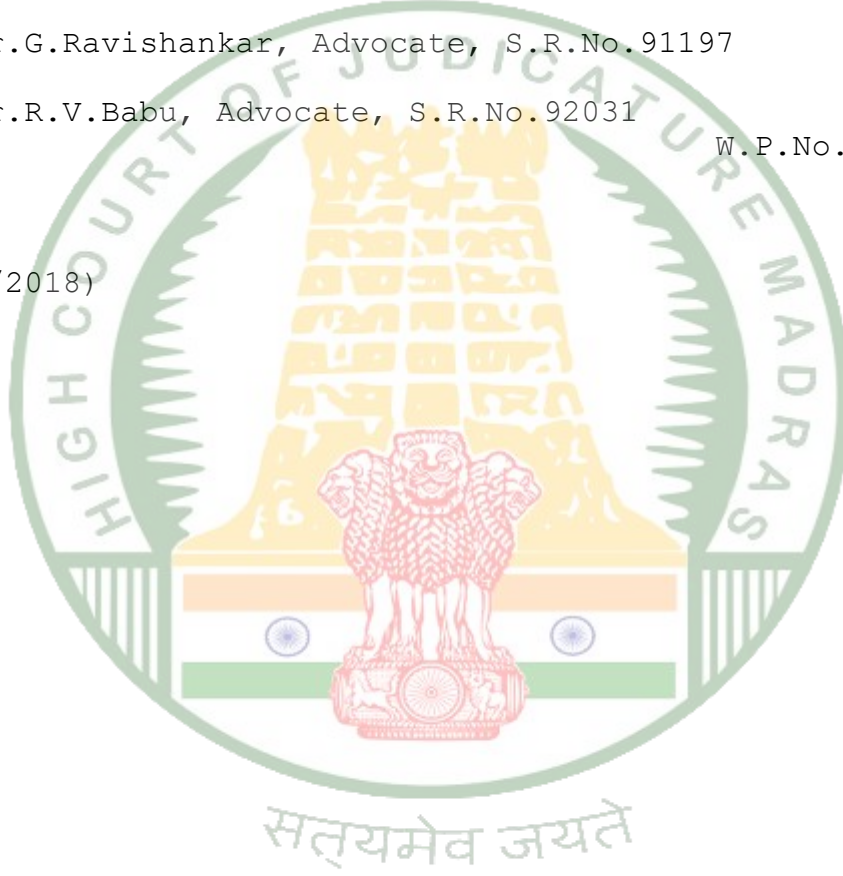
+1cc to Mr.G.Ravishankar, Advocate, S.R.No.91197

+1cc to Mr.R.V.Babu, Advocate, S.R.No.92031

W.P.No.165 of 2010

GMR (CO)

RRK (04/01/2018)



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