

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.02.2017**

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P.No.**12399 of 2003**

S.Elumalai

.. Petitioner

Vs.

The Chairman
Tamil Nadu Slum Clearance Board
Kamarajar Sali, Chennai

.. Respondent

Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of Certiorari Mandamus calling for the records relating to the impugned order dated 28.3.2003 Ref: Na.Ka.E1/36547/98 and quash the same and consequently direct the respondent board to execute sale deed and convey the Plot No.150A, Door No.20/D, Jeevanandam Nagar, New Washermenpet, Chennai 600 081 to the petitioner within a time to be fixed by this Hon'ble Court.

For Petitioner .. No appearance

For Respondent .. Mr.R.V.Babu

ORDER

The Tamil Nadu Slum Clearance Board allotted 5 Plots in Plot No.150 in Jeevanandham Nagar, Tondiarpet, Chennai. The said plot was sub divided into A, B, C, D and E and allotted to the following 5 persons:

<i>Sl.No.</i>	<i>Plot No.</i>	<i>Name of the allottee</i>
1.	150A	Elumalai/Swaminathan - Petitioner
2.	150B	Dhamaodharan/Venkatesan
3.	150C	Mani/Kannaiah
4.	150D	Chandravathy/Radhakrishnan
5.	150R	Shanthi/Nagarajan

After allotment, an enquiry was conducted by the Special Tahsildar and it was found that Elumalai/petitioner and others were not eligible for allotment and therefore, their allotments were cancelled.

2. Since Plot No.150 was vacant, as the allotment was cancelled, Jeevanandham Nagar Residence Association filed W.P.Nos.11211 of 1989 and 15944/1989 before this Court, praying for a direction to the Tamil Nadu Slum Clearance Board and the Corporation of Chennai to construct a dispensary in Plot No.150, Jeevanandam Nagar with the funds provided by the World Bank. After hearing all the parties, this Court by order dated 4.11.1998 in W.P.No.11211 of 1989 directed the Tamil Nadu Slum Clearance Board and the Corporation of Chennai to construct the dispensary in Plot No.150, with the aid provided by the World Bank, within a period of six months from the date of receipt of a copy of this order.

3. Pursuant to the direction of this Court, the authorities initiated eviction proceedings against the encroachers in the occupation of Plot No.150. The petitioner gave a representation dated 24.8.2002 to the Tamil Nadu Housing Board, requesting the Board to allot Plot No.150-A. in his favour and execute the necessary Sale Deed. Since the Slum Clearance Board did not respond, the petitioner filed W.P.No.4281 of 2003, in which this Court passed final orders on 13.2.2003, directing the Slum Clearance Board to consider the representations dated 31.12.1999, 15.12.2000 and 1.9.2002 and take a decision one way or the other and intimate the same to the petitioner, within a period of 8 weeks from the date of receipt of a copy of this order. Pursuant to the said direction, the Slum Clearance Board by the impugned order dated 28.3.2003 rejected the request of allotment made by the petitioner, challenging which the petitioner is before this Court.

4. In the above writ petition, the petitioner also filed a Miscellaneous Petition in W.P.M.P.No.15576 of 2003, seeking for an injunction, wherein, this Court passed the following order on 8.10.2003:

"In the light of the communication of the Slum Clearance Board dated 28.3.2003 addressed to the petitioner that they have to comply with the order passed by this Court in

W.P.No.11211 of 1989 dated 4.11.1998, I am satisfied that there cannot be any injunction as claimed by the petitioner. As a matter of fact, it is the duty of the Slum Clearance Board to implement the earlier order passed by this Court. If injunction as claimed is granted, the Slum Clearance Board cannot implement the earlier order of this Court. Hence, this petition is dismissed.

5. On 30.1.2017, this Court passed the following order:

"When the matter is taken up for hearing, learned counsel for the petitioner submitted that he has no further instructions from the petitioner to represent and that he is withdrawing the Vakalat. He has also made an endorsement to that effect in the Vakalat.

Registry is directed to print the name of the petitioner Mr.Elumlai and Mr.Aiyangara Prabu, Mr.R.V.Babu, Mr.M.Tamil Priyan and also the Tamil Nadu Slum Clearance Board.

Post on 1.2.2017."

6. The name of the petitioner has been today printed in the cause list and it was called out thrice. There was no representation for the petitioner. Hence, this Court proceeded to peruse the records produced by Mr.R.Nagarajan, Superintendent, Tamil Nadu Slum Clearance Board, Chennai-5.

7. From a perusal of the records, it is seen that the Tamil Nadu Slum Clearance Board had cancelled the allotment given to the petitioner as early as on 28.3.1990. After the order dated 8.10.2003 was passed by this Court in the present writ petition and during the pendency of the present writ petition, the petitioner has filed another writ petition, namely W.P.No.19689 of 2009 for similar relief by suppressing the pendency of this writ petition. In W.P.No.19689 of 2009, this Court has passed the following order on 24.3.2010 and paragraph Nos.4, 5, 6 and 7 are extracted hereunder:

"4. The learned counsel for the respondent submitted that subsequent to the order dated 05.08.1989 passed by the first respondent once again the order of allotment was cancelled on 28.03.1990 and the said order of cancellation was not challenged by the petitioner so far. Under such circumstances, the prayer made in the writ petition cannot be entertained and the writ petition has to be dismissed.

5. Per contra the learned counsel for the petitioner replied that the order of cancellation dated 28.03.1990 was not served so far.

6. In view of the submissions made by the learned counsel appearing for the respondent Board that the order of allotment made to the petitioner was cancelled on 28.03.1990, I am of the opinion that the prayer sought by the petitioner cannot be entertained at this length of time. However, the respondent board is hereby directed to furnish the copy of the cancellation order dated 28.03.1990 in favour

of the respondent. On receipt of such a copy, the petitioner is at liberty to make a representation to the respondent board with regard to refund of the amount paid by him and on receipt of such representation, the respondent is directed to consider the said representation and pass appropriate orders.

7. With these observations and directions, this writ petition is disposed of. No costs."

8. One Shanthi and Chandravathy, who were similarly placed as that of the petitioner, had also filed W.P.Nos.22774 and 23165 of 2010, which came to be dismissed by this Court on 27.7.2012 and paragraph No.13 is as follows:

"13. The writ petitions were absolutely frivolous because the petitioners having lost several rounds of litigation cannot re-agitate the matter again and again. Thus the writ petitions, challenging the order of the State Government in G.O.Ms.No.185 Housing and Urban Development Department, dated 27.08.2010 will stand dismissed as they are misconceived and without justification. The writ petitioners are bound by the earlier order passed by this Court and they cannot re-agitate the matter. Accordingly, W.P.Nos.22774 and 23165 of 2010 will also stand dismissed. No costs. Connected miscellaneous petitions are closed."

9. From a conspectus of facts in this case, it is clear that this petitioner has been preventing the respondent from implementing the

earlier directions issued by this Court in W.P.No.11211 of 1989 dated 4.11.1998 by filing frivolous writ petitions. On account of pendency of the writ petition, the Tamil Nadu Slum Clearance Board is not able to establish a dispensary for the poor.

10.In view of the above, this writ petition is dismissed with a further direction to the Tamil Nadu Slum Clearance Board to evict the encroachers in Plot No.150, Jeevanandham Nagar, Tondiarpet, Chennai and establish the dispensary expeditiously. No costs.

03.02.2017

Index:Yes/No
ajr

To

The Chairman
Tamil Nadu Slum Clearance Board
Kamarajar Sali, Chennai

P.N.PRAKASH, J.

ajr

W.P.No.12399 of 2003

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