

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2017

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.42952 of 2002

and

W.P.Nos.63291 and 63292 of 2002

M.Ramu

... Petitioner

Vs.

1. State of Tamilnadu,
rep.by its Secretary to Government,
Housing and Urban Development
Department,
Fort St.George,
Chennai-9.

2. The Chairman,
Tamilnadu Slum Clearance Board,
5.Kamarajar Salai,
Chepauk, Chennai -5.

3. The Estate Officer,
Allotment,
Tamilnadu Slum Clearance Board,
Chennai -5.

4. Mrs.Kala,
No.36/21,10th Street,
Trustpuram,
Tamilnadu Slum Clearance Board,
Kodambakkam, Chennai-24.

5. Inspector of Police,
R2, Kodambakkam Police Station,
Chennai

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order in G.O.D.No.788 dated 08.11.2002 on the file of the first respondent and quash the same as illegal, arbitrary, without jurisdiction and consequently direct the respondents 1 to 3 to effect transfer of allotment of flat No.C.8 Tamilnadu Slum Clearance Board, Trustpuram, Kodambakkam, Chennai -24 in

petitioner's name without insisting on consent letter from the fourth respondent.

For Petitioner : Mr.P.B.Balaji

For Respondents : Mrs.K.Bhuvaneswari,
Government Advocate for R1 & 5
Mr.Rajasekar for TNSCB
for R2 & 3

Mr.D.Vijay for R4

O R D E R

The petitioner has filed this writ petition for issuance of a Writ of Certiorarified Mandamus to quash the order of the first respondent and direct the respondents 1 to 3 to effect transfer of records in his name for the flat C.8, Trustpuram, Chennai-24 in his occupation.

2.The petitioner and the fourth respondents are the legal heirs of the deceased M.Chandrammal, wife of late Munuswamy. The petitioner has filed this writ petition to challenge the order dated 08.11.2002, wherein the petitioner was directed to get no objection certificate from the fourth respondent. Since no objection certificate was not obtained from the fourth respondent, the appeal petition is rejected.

3.The case of the petitioner is that his mother M.Chandrammal was allotted the tenement No.C-8, Trustpuram, Kodambakkam, Chennai by the Tamil Nadu Slum Clearance Board in the year 1995. After the demise of the said M.Chandrammal, the fourth respondent, who was also one of the legal heirs of M.Chandrammal filed a petition before the Tamil Nadu Slum Clearance Board for allotment of the said tenement. The petitioner objected to the same and his son is a handicapped person and he is not in a position to earn much. After the demise of M.Chandrammal, the petitioner has been in continuous possession and sought no objection certificate from the fourth respondent but the same was not obtained from the fourth respondent. Hence the said impugned order dated 08.11.2002 was passed by the second respondent.

4.The learned counsel appearing for the petitioner would submit that the petitioner and his mother have given substantial amount to the fourth respondent by way of Sreedhana and the mother had left only the tenementship in favour of the petitioner and there is no disputed question of facts involving in this case for claiming rights over the allotment of the deceased mother.

5.The learned counsel appearing for the fourth respondent would submit that there was no disputed question of facts as per the legal heir certificate. The petitioner and the fourth respondent are the legal heirs of the deceased M.Chandrammal and the fourth respondent is entitled for half of the share of the allotment which is in favour of the deceased M.Chandammal and she did not receive any Sreedhana from the petitioner.

6.Considering the submissions made by both the counsel, the prima facie facts disclose that the matter required to be adjudicated by the competent Civil Court since the matter involved disputed question of fact to decide whether the 4th respondent received Sreedhana from the petitioner's mother. In view of the above, this Court directs the petitioner and the fourth respondent to approach the City Civil Court, Chennai with regard to the settlement of share of the property.

7.In view of the above, this Court is inclined to dispose of the writ petition with liberty to the petitioner and the fourth respondent to work out their remedy before the City Civil Court. The possession of the petitioner shall not be disturbed till the disposal of the Civil Court proceedings. Consequently, the connected miscellaneous petitions are closed. No costs.

vv/kas

Sd/-

Assistant Registrar [CCC]

/TRUE COPY/

Sub-Assistant Registrar

To.

1. The Secretary to Government,
Housing and Urban Development
Department,
Fort St.George,
Chennai-9.
2. The Chairman,
Tamilnadu Slum Clearance Board,
5.Kamarajar Salai,
Chepauk, Chennai -5.

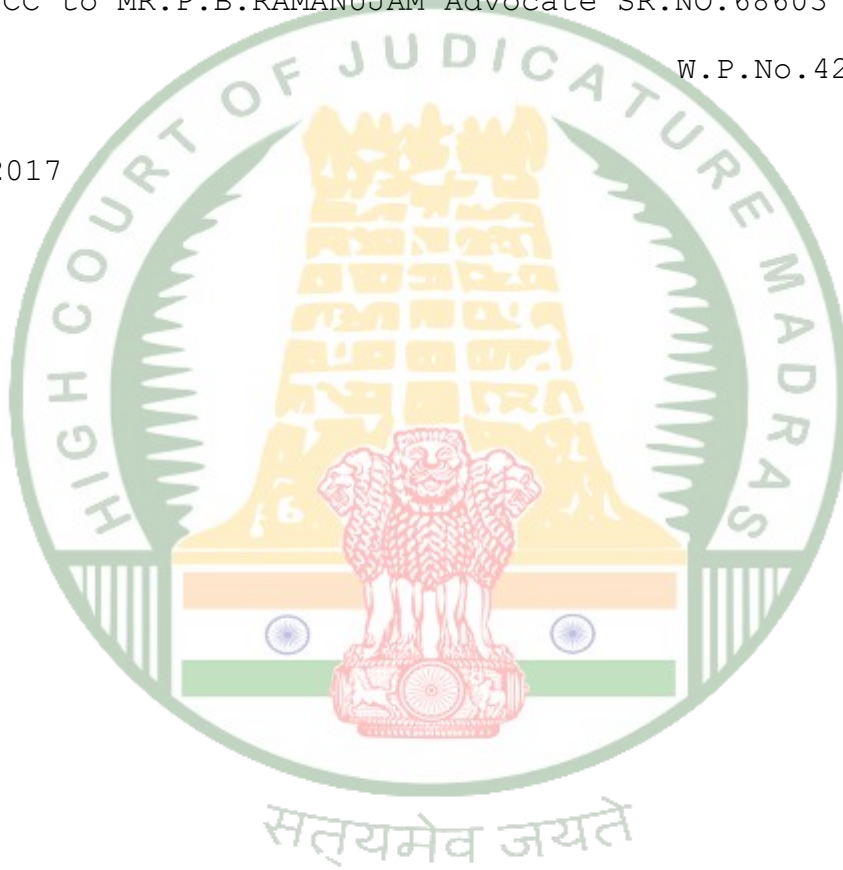
3. The Estate Officer,
Allotment,
Tamilnadu Slum Clearance Board,
Chennai -5.

4. Inspector of Police,
R2, Kodambakkam Police Station,
Chennai

+1CC to M/S.M.RAJA SEKAR Advocate SR.NO.70170
+1CC to MR.S.DHARMAKKAN Advocate SR.NO.68604
+1CC to MR.P.B.RAMANUJAM Advocate SR.NO.68603

W.P.No.42952 of 2002

RK[CO]
MK:27/10/2017



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