

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 20.12.2018**

**CORAM**

**THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM**

W.P.No.31974 of 2005

and

MP.No.34999 of 2005

Elumalai

....Petitioner

-VS-

1. The Chairman,  
Tamil Nadu Slum Clearance Board,  
Chennai - 600 005.

2. The Estate Officer,  
Tamil Nadu Slum Clearance Board,  
No.2 Thiyagaraja Salai,  
Teynampet, Chennai 600 018.

...Respondent

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, call for the records in his proceeding No.15546/2005 B3 dated 22.09.2005 on the file of the 1<sup>st</sup> respondent and to quash the same.

For Petitioner : Mr.S.L.Venkatesan

For Respondents : Mr.S.Prabhu

**ORDER**

The order impugned dated 22.09.2005 in relation to the cancellation of the allotment made in favour of the writ petitioner is under challenge in the present writ petition.

2. The learned counsel for the writ petitioner states that the writ petitioner was an allottee of site measuring 10 feet to 10 feet situated immediately on the south of Tamil Nadu Clearance Board, Block No.21, by the Tamil Nadu Slum Clearance Board through its order dated 27.08.1992.

3. The writ petitioner was paying the license fee of Rs.100/- per month and he had already deposited Rs.1000/- as caution deposit. The writ petitioner states that the Authorities have unnecessarily interfered with his peaceful possession and enjoyment and at one point of time, the license itself was cancelled. The writ petitioner earlier filed a Civil Suit in O.S.No.4216 of 2000 on the file of the 13<sup>th</sup> Assistant Judge, City Civil Judge, Chennai for declaration to declare the right of access and for mandatory injunction and for a direction to direct the Board to remove the public water tab, water tank, cement flooring and other constructions made by the Board between his allotted site and the 2<sup>nd</sup> cross street. The Suit was decreed and the appeal filed by the Board in A.S.No.256 of 2003 was also dismissed.

4. Subsequently, the 2<sup>nd</sup> respondent issued a notice on 08.08.2005 seeking explanation in respect of the encroachment made by the writ petitioner. Writ petitioner submitted an explanation and without considering the explanation, the Board has passed an order of eviction. The appeal preferred by the writ petitioner was also dismissed. The earlier writ petition filed by the writ petitioner in WP.No.31083 of 2005 was also dismissed. Subsequently, the respondents issued the order impugned in the present writ petition dated 22.09.2005 evicting the writ petitioner from the allotted premises.

5. The learned counsel for the writ petitioner states that the writ petitioner was the original allottee and possession and occupation of the premises. The impugned order of cancellation of allotment is based on certain false set of facts and therefore the said order is liable to be scrapped. The learned counsel appearing on behalf of the respondent states that the writ petitioner was allotted the bunk shop and the allegations set out in the writ petition are false and frivolous. The respondent issued Form A notice on 08.08.2005 in respect of the violation of the allotment conditions and the encroachment made by the writ petitioner in respect of the premises belongs to the Board. Since the writ petitioner has not

furnished convincing reply in respect of the violation of the allotment condition, the respondent Board issued D notice in terms of Rule 9 of the Tamil Nadu Slum Clearance Board (Control and Management of Properties) Rules 1971, for eviction of the writ petitioner from the property.

6. The procedures contemplated under the rules were followed in the case of the writ petitioner. The appeal filed by the writ petitioner before the first respondent / Chairman, Tamil Nadu Slum Clearance Board was also dismissed. Thus, the writ petitioner is not entitled for any relief. The learned counsel appearing on behalf of the respondent on instructions from the officials made a submission that the entire bunk shop allotted in favour of the writ petitioner had been evicted and the encroachments were also removed.

7. Thus, even if the writ petitioner is continuing any business it is without any allotment and without any approval. This Court is of an opinion that the eviction order issued by the Authorities were confirmed and the appeal filed by the writ petitioner was also dismissed. On instructions, the learned counsel for the respondents states that the writ petitioner was evicted from the allotted premises and not in possession and enjoyment of the same. Even if the writ

petitioner attempts to encroach the portion of the land belongs to the Slum Clearance Board it is duty mandatory on the part of the officials to evict all such encroachers by following the procedures contemplated under the provisions of the Tamil Nadu Slum Clearance Board (Control and Management of Properties) Rules, 1971. Encroachments in the Board's property can never be encouraged nor be allowed. All encroachments are to be removed. The allotment granted in favour of the writ petitioner had been cancelled and he was already evicted from the allotted premises.

8. This being the factum of the case, it is for the writ petitioner to file a fresh application if he is otherwise eligible seeking allotment. However the relief as such sought for in the present writ petition cannot be granted. Accordingly, the writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

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Speaking order  
Index: Yes  
Internet: Yes

**S.M.SUBRAMANIAM, J.**  
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To

1. The Chairman,  
Tamil Nadu Slum Clearance Board,  
Chennai – 600 005.
2. The Estate Officer,  
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