

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.11.2018

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.23883 of 2018
and WMP Nos.27838 & 27839 of 2018

P.Arasu

.. Petitioner

Vs.

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

2. Mrs.Lakshmi

3. Mrs.Prabavathi

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the respondent in Na.Ka.No.G6/11793/18 dated 17.07.2018 and quash the same and consequently direct the respondent to issue allotment order for the Door No.7/9, Nochikuppam Housing Board, Mylapore, Chennai 600004 in the petitioner name.

For Petitioner : Mr.S.Sarath Chandran
For Respondents : Mr.B.Kesavan for R1

O R D E R

The Writ Petition is filed seeking to quash the proceedings of the respondent in Na.Ka.No.G6/11793/18 dated 17.07.2018 and consequently direct the respondent to allot the Door No.7/9, Nochikuppam Housing Board, Mylapore, Chennai 600 004, to the petitioner.

2. Heard Mr.S.Sarath Chandran, learned counsel appearing for the petitioner and Mr.B.Kesavan, learned counsel appearing for the first respondent.

3. Originally, the father of the petitioner was residing in the above said address. After his demise, the petitioner, being one of the son's is seeking allotment of the same. The original allottee has another son by name Prakash and daughter by name

Lakshmi, who are said to be missing. Another daughter by name Prabavathi has given no objection for giving the allotment in favour of the petitioner. The problem is only with the second respondent, who is the wife of the pre-deceased son. According to the petitioner, the allotment order is given to both the petitioner as well as the second respondent. The petitioner is living in the premises and issuing the allotment order by the first respondent adding the name of the second respondent will cause confusion. Therefore, the petitioner approached the first respondent to issue allotment order exclusively in his name.

4. The learned counsel for the first respondent would submit that the second respondent has issued an objection letter for allotting the premises in the name of the petitioner. The impugned order dated 17.07.2018 came to be passed by the respondent stating that if the legal heirs of the original allottee jointly apply for allotment by submitting their Legal Heir Certificate, then the Board will not have any objection to allot the premises, whereas in this case, though the pre-deceased son's wife is entitled for the benefit of allotment, the petitioner is claiming exclusive allotment for himself. Admittedly, the wife of the pre-deceased son - second respondent has also raised objection for allotting the tenement in the name of the petitioner. In such circumstances, the first respondent has directed the petitioner to surrender possession of the property.

5. The case of the petitioner is that the said Lakshmi, second respondent is living elsewhere and she cannot have any claim or objection for the petitioner to get the allotment. The impugned order was passed by the first respondent without issuing notice and conducting enquiries with respect to the claims. Hence, this Court is constrained to set aside the impugned order and direct the first respondent to issue notice to all the legal heirs available and afford them an opportunity of personal hearing by conducting enquiry and then pass appropriate orders thereafter. The said exercise should be completed within a period of six (6) weeks from the date of receipt of a copy of this order.

6. With the above directions, this writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jv

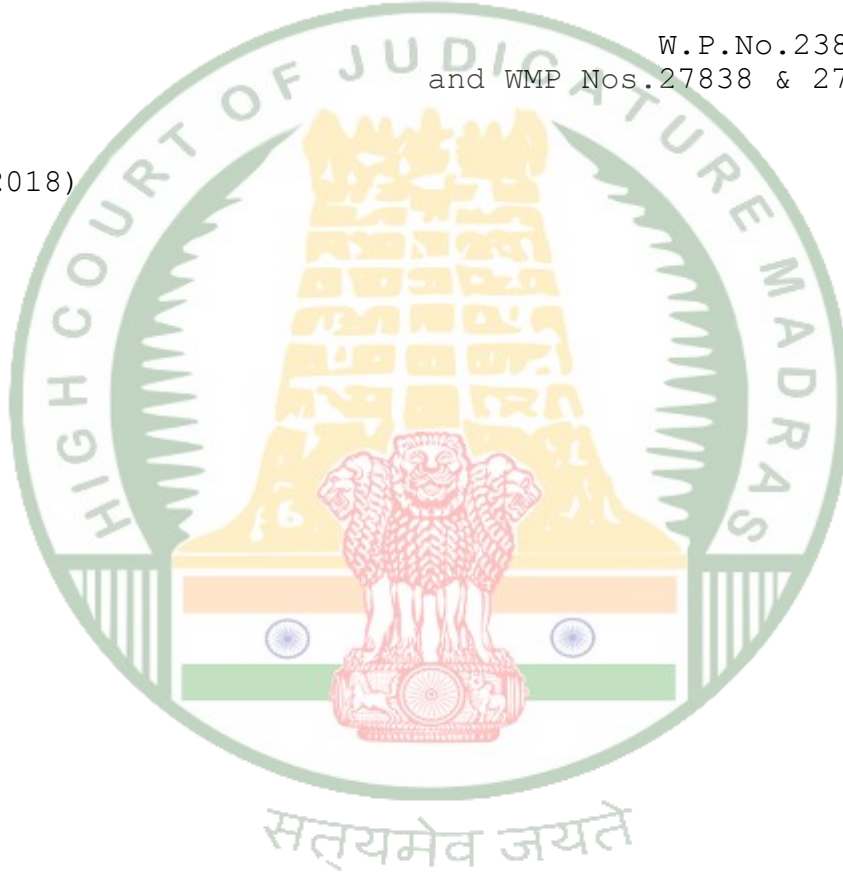
To

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

+lcc to Mr.B.Kesavan, Advocate, S.R.No. 76873
+lcc to Mr.S.Sarath Chandran, Advocate, S.R.No. 78895

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SR(CO)
GN(21/12/2018)



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