

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2019

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.NOS.36567 & 36568 OF 2007

&

M.P.NOS.2 & 2 OF 2007

1. M.Gandhimathi

2. Muniappan

..Petitioners in W.P.No.36567/2007

R.Jeevarathinam

..Petitioner in W.P.No.36568/2008

Vs

1. The Executive Engineer,
Coimbatore Division,
Tamil Nadu Slum Clearance Board,
Kamarajar Salari,
Chennai-600 005.

2. The Estate Officer,
T.N.S.C.B.,
Coimbatore Division,
13/A, West Arogyasamy Road,
R.S.Puram,
Coimbatore-641 002.

..Respondents in both WPs

Prayer in W.P.No.36567 of 2007 :

Writ Petition filed under Article 226 of the Constitution of India, seeking issuance of a Writ of Certiorarified Manadamus calling for the records of the 2nd respondent relating to his Important Notice dated 01.11.2007 and quash the same and forbear the respondents from evicting the petitioners from the property bearing Flat No.Y-97, (Block-Y) Ground Floor, Perur Road, Selvapuram (North), Coimbatore South Taluk, Coimbatore District.
Prayer in W.P.No.36568 of 2007 : Writ Petition filed under Article 226 of the Constitution of India, seeking issuance of a Writ of Certiorarified Manadamus calling for the records of the 2nd respondent relating to his Important Notice dated 01.11.2007 and quash the same and forbear the respondents from evicting the petitioners from the property bearing Flat No.U.U.1, Ground Floor, Perur Road, Selvapuram (North), Coimbatore South Taluk, Coimbatore District.

For Petitioner : Mr.S.Mukund, (in both Wps)
For Respondents : Mr.S.Prabhu, (in both Wps)

COMMON ORDER

Heard Mr.S.Mukund, learned counsel for the petitioners, Mr.S.Prabhu, learned Standing Counsel appearing for the respondents and perused the materials available on record.

2. These writ petitions have been filed to quash the notice dated 01.11.2007 and forbear the respondents from evicting the petitioners from the property bearing Flat Nos.Y-97, (Block-Y) & No.U.U.1, Ground Floor, Perur Road, Selvapuram (North) Coimbatore South Taluk, Coimbatore District.

3. The brief facts of the case are as follows:

In the year 1972-73, the Tamilnadu Housing Board constructed the buildings at Perur Road, Selvapuram (North), Coimbatore. In 2004, the same was handed over to the Slum Clearance Board. The petitioners are the tenements under the Tamilnadu Slum Clearance Board. After getting a report from the Technical Expert Committee, the Government decided to demolish the buildings as they were in dilapidated condition and to put up new construction. Notices issued to the petitioner to vacate the premises has been assailed in the present writ petitions.

4. Mr.S.Mukund, learned counsel for the petitioner would submit that the building in question is stable and is not in a condition unfit for human habitation and that if the petitioners are vacated, there is no alternative accommodation provided for them and it would lead irreparable loss to the petitioners and hence, the impugned notice is liable to be quashed.

5. Per contra, Mr.S.Prabhu, learned Standing Counsel appearing for the respondents by drawing attention of this Court to the counter affidavit, would state that the Technical Expert Committee had conducted inspection and after a proper survey, it has decided to demolish the buildings. Since the occupants resisted the proposal of the Government vide G.O.Ms.No.219, dated 02.12.2009, the said proposal was dropped. It is further submitted that the occupants have to maintain and repair the buildings as per the conditions in the sale deed, however, the occupants have not maintained and repaired the buildings and it is in dangerous condition posing threat to life of occupants and nearby buildings. The Tamil Nadu Slum Clearance Board would construct new flats with a plinth area of 400 sq.ft. each and allot to the same occupants, if the occupants come forward for reconstruction.

6. The learned Standing Counsel would urge that it is the duty of the Government to see that these buildings are safe for dwelling and that this Court in identical facts dismissed W.P.No.26529 of 2008, by order dated 28.02.2012, directing the petitioner therein to approach the authorities.

7. In the case on hand, the photographs produced by the respondents would show that the building is in dilapidated condition and if any untoward incident occurs, the Government would be held responsible. It is to be noted that the Committee of Experts have already come to the conclusion that the building is unfit for occupation and the decision of the Expert committee cannot be doubted by the Court nor sit in judgment over the decision of the expert body.

8. For the foregoing reasons, I see no good reasons to interfere in these writ petitions. Accordingly, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are dismissed.

Sd/-
Assistant Registrar (CS V)

//True Copy//

Sub Assistant Registrar

kal

To

1. The Executive Engineer,
Coimbatore Division,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai, Chennai-600 005.
2. The Estate Officer,
T.N.S.C.B., Coimbatore Division,
13/A, West Arogyasamy Road,
R.S.Puram, Coimbatore-641 002.

+2cc to M/s.Sarvabhauman Associates, Advocate, SR.No.71726, 71727
+1cc to Mr.S.Prabhu,, Advocate, S.R.No.71529

W.P.Nos.36567 & 36568 of 2007

&
M.P.Nos.2 & 2 of 2007

SPD (CO)
CS/24/10/2019