

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE T. RAJA

Writ Petition No.40855 of 2015 and
M.P.No.1 of 2015

S.Karthikeyan ... Petitioner

Vs

1. The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk, Chennai-5.

2. The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk, Chennai-5.

3. Estate Officer-6,
Tamil Nadu Slum Clearance Board,
No.212, R.K.Mutt Road,
Chennai-600 004.

4. P.Jawahar ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the order of the 1st respondent in Na.Ka.No.E6/3289/2014 dated 24.11.2015 and quash the same, consequently, direct the respondents 1 to 3 to allot Plot No.304, Door No.48, New No.91, Second Trust Main Road, Mandavelipakkam, Chennai-28 comprised in R.S.No.4436/60 part, Block No.98 of Mylapore Village in all measuring 800 sq.ft. bounded on the North by Door No.47, South by - 20 Feet Trust Street, East by -Plot No.305/A, West by -II Trust Main Road, Mandaveli, Chennai-600 028 in the name of the petitioner.

For Petitioner : Mr.P.Satheesh Kumar

For Respondents : Mr.S.Prabu,
1 to 3 Standing Counsel

R4 : No Appearance

O R D E R

The petitioner has filed this Writ Petition, challenging the impugned order of the 1st respondent in Na.Ka.No.E6/3289/2014 dated 24.11.2015 in and by which the request of the petitioner for allotment of Plot No.304, Door No.48, New No.91, Second Trust Main Road, Mandavelipakkam, Chennai-28 has been rejected.

2. Heard the learned Counsel for the petitioner and the learned Standing Counsel appearing for the respondents 1 to 3 and I have also perused the materials available on record carefully.

3. At the outset, a perusal of the impugned order reveals that Plot No.304 was originally allotted to Mrs.Anna Mary, wife of Alphonse and in violation of the rules of the Tamil Nadu Slum Clearance Board, he has sold a portion to one P.Jawar, who let out the same for rent to the petitioner. Further, the petitioner himself has admitted his status as tenant in a portion of Plot No.304, under P.Jawahar. While so, it appears that the 4th respondent herein, who is the landlord of the land-in-question, namely, Mr.P.Jawahar has filed RCOP.No.1370 of 2004 on the file of the XIII Small Causes Court/Rent Control Court, Chennai seeking eviction of the petitioner on the ground that he has committed willful default in making payment of monthly rents from January, 2004 onwards. The said P.Jawahar has also filed another Eviction Petition in RCOP.No.1872 of 2004 before the same court on the ground of denial of title and both the RCOPs were allowed by a Common Order dated 23.3.2006. As against that, the petitioner herein filed RCA.Nos.384 and 385/2006 before the Rent Controller Appellate Authority and the Appellate Authority by a Common Order dated 13.7.2012 confirmed the orders of eviction, thereby dismissing the appeals filed by the petitioner herein. As against that, CRP.(NPD) Nos.3428 and 3429/2012 were filed and this Court by a Common Order dated 22.3.2017 allowed the same thereby giving a finding that though the petitioner was a tenant under the landlord P.Jawahar and there has been a relationship of tenant and landlord between them, no prior permission was obtained from the competent authority as contemplated under Section 29 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1927 to initiate any legal proceedings by the 4th respondent herein.

4. That apart, even the counter affidavit filed by the respondents 1 to 3 also reveals that Plot No.304 was allotted to Mrs.Anna Mary, wife of Alphonse. Thereafter, it was reallocated to Mr.Raji, Son of Thiagarajan vide Board Proceedings No.Se.Mu.No.1827/83 Ye.A.U.Va.Thi-11, dated 17.3.1987.

Subsequently, when P.Jawahar, the 4th respondent herein filed W.P.No.20160 of 2004 seeking a direction to allot the plot in his name, the petitioner impleaded himself and made counter claim. In view of the above circumstances, this Court by order dated 20.02.2007 directed the 1st respondent to consider and dispose of the representations of both sides as per Rules. In view of the direction issued by this Court, the present impugned order has been passed. The impugned order is very clear that the petitioner has not even produced any document to show that Plot No.304 has been allotted by the respondents 1 to 3 in his favour. Moreover, Mr.Jawahar established the fact that he has purchased the Plot No.304 and the petitioner herein is a tenant under him. In addition thereto, the RCOP Proceedings initiated by the 4th respondent against the petitioner on the ground that he is a tenant, also ended in favour of the 4th respondent holding that he is the landlord and the petitioner is the tenant. Therefore, when the order dated 22.3.2017 passed in CRP (NPD) No.3428 and 3429/2012 gives a finding that the petitioner is the tenant and the 4th respondent is the landlord, this Court is of the view that the Writ Petition is completely devoid of any merit whatsoever.

5. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk, Chennai-5.

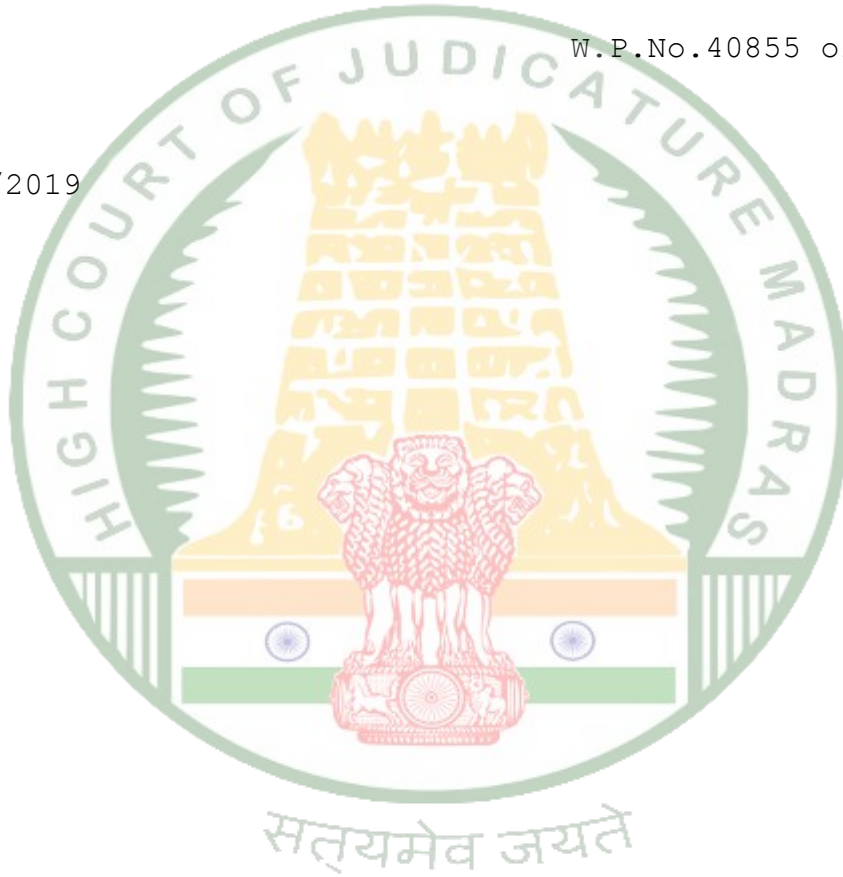
2. The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk, Chennai-5.

3. Estate Officer-6,
Tamil Nadu Slum Clearance Board,
No.212, R.K.Mutt Road,
Chennai-600 004.

+1cc to Mr.S.Prabhu, Advocate Sr.83698
+1cc to Mr.P.Satheesh Kumar, Advocate Sr.83396

W.P.No.40855 of 2015

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srg 08/11/2019



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