

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2019

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.35066 of 2016
and WMP.No. 30226 of 2016

Jamal Hussain

...Petitioner

vs.

1. The Tamil Nadu Slum Clearance Board,
rep. By its Chairman,
Kamaraj Salai, Chennai - 600 005.

2. The Estate Officer,
Estate Officer III,
Tamil Nadu Slum Clearance Board,
Chennai - 600 040.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records in connection with impugned order in Na.Ka.No.1267/A/2016/A.A-3 dated 20.06.2016, passed by the 1st respondent to issue an allotment order in favor of the petitioner only with respect to lands occupied by the petitioner measuring about 93.3 sq.mt in Plot No.186, New Plot No.260 at 5th Street, Mahatma Gandhi Street, Anna Sathya Nagar.

For Petitioner : Mr.A.Selvendran

For Respondents: Mr.S.Prabhu,
Standing Counsel

ORDER

(Order of the Court was made by Mr.V.BHARATHIDASAN, J.)

Challenging the order passed by the first respondent, refusing to allot a plot in favour of the petitioner, the present writ petition has been filed.

2. The grievance of the petitioner is that he is a slum dweller residing at Annai Sathya Nagar, Thirumullaivoyal Village. The Government of Tamil Nadu passed a Government Order in G.O.Ms.No.370 Revenue (CA 5(2)) dated 09.07.1999, by which, the Government has allotted an extent of 7.690 hectares of land to the first respondent (Slum Clearance Board) to develop the property for the benefit of the slum dwellers. Based on the said G.O, the petitioner had paid a initial deposit for the allotment in the year 1989 and he was allotted with a plot at Old No.186, New plot No.260, 5th street, Mahatma Gandhi Street, Anna Sathya Nagar. Pursuant to the same, the petitioner is in possession and enjoyment of the same. In the meantime, the petitioner had sold a part of his property measuring 97.34 sq.mt in favour of one Venkatesan. Subsequently, the impugned order was passed by the first respondent on the ground that, as petitioner had sold a part of the area allotted to him, the petitioner is not entitled for the allotment, and rejected his claim. Despite several representations made by the petitioner, the first and second respondents did not allot any new plot in favour of the petitioner. Now challenging the order, the present writ petition has been filed.

3. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel for the respondents.

4. The learned counsel for petitioner would submit that even though the petitioner is eligible for an extent of 181.8 sq.mt, the petitioner has restricting his claim only in respect of 93.3 sq.mt and also made representations for allotment for the above said extent, but without considering the same, the respondent had rejected the entire claim. Further, the learned counsel for petitioner submitted that the petitioner will be satisfied if an allotment is made in respect of the land to an extent of 93.3 sq.mt.

5. The learned counsel appearing for the respondents would contend that even though the petitioner was eligible to an extent of 181.8 sq.mt, even before the order of allotment, admittedly the petitioner sold the part of land, hence, he is not eligible to get allotment for the remaining land.

6. Considered the rival submissions, it is an admitted fact that the petitioner was eligible for allotment to an extent of 181.8 sq.mt and also made an initial payment. However as on date, the petitioner is in possession and enjoyment of 93.3 sq.mt, only and he wants an order of allotment to that extent. The respondent rejected the claim in total, as he sold a part of the land allotted to him.

7. The petitioner is eligible for allotment to an extent of 181.8 sq.mt and also paid the initial cost. The petitioner sold a part of land, for which he does not have any right, and the sale is also not valid. However considering the fact that, the petitioner is restricting his claim for an extent of 93.3 sq.mt., considering his long possession of land and also payment of initial cost of land, the respondents are directed to consider the representation of the petitioner, and issue allotment order in respect of 93.3 sq.mt alone, on payment of the remaining land cost with usual condition within a period of twelve(12) weeks from the date of receipt of a copy of this order.

8. With the above observations, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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

2. The Estate Officer,
Estate Officer III,
Tamil Nadu Slum Clearance Board,
Chennai - 600 040.

+1 cc to M/s.A.Selvendran Advocate sr77853

+1 cc to M/s.S.Prabhu Advocate sr77293

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