

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.05.2019

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

&

THE HON'BLE MS.JUSTICE P.T.ASHA

W.P.No.15072 of 2019

and

WMP.No.15048 of 2019

N. Swaminathan ...Petitioner

vs.

1. The State rep by its Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George,
Chennai - 9.
2. The Executive Engineer & Administrative Officer
cum Competent authority,
Tamil Nadu Housing Board, K.K. Nagar Division,
Anna Nagar, 2nd Avenue,
Chennai - 600 040.
...Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the 2nd respondent from taking possession of the property in Survey No.141/2, measuring 7.6% UDS out of 5,312 sq.ft Flat No.F, admeasuring 460 sq.ft with building at No.33, Gangai Amman Koil Street, Kaikankuppam, Valasaravakkam without providing an opportunity and following due process of law.

For Petitioner : Mr.AR.L.Sundaresan, Senior Counsel
for Ms.A.L.Ganthimathi

For Respondents: Mr.K.S.Suresh,
Government Advocate for R1
Mr. M.Baskar, standing counsel for TNHB
for R2

O R D E R

(Order of the Court was made by Mr.N.SATHISH KUMAR, J.)

Petitioner has filed this writ petition seeking issuance of Writ of Mandamus forbearing the 2nd respondent from taking possession of the property in Survey No.141/2, measuring 7.6% UDS out of 5,312 sq.ft Flat No.F, admeasuring 460 sq.ft with building at No.33, Gangai Amman Koil Street, Kaikankuppam, Valasaravakkam without providing an opportunity and following due process of law.

2. It is the case of the petitioner that he is the absolute owner of the above said property. It is the further case of the petitioner that though the neighbouring lands were sought to be evicted by the 2nd respondent and notices were served to the adjacent neighboring land owners, he was not served with any notice. However, an order was passed and the same was served to the other adjacent and neighbouring land owners. The petitioner states that even though the petitioner was not served with any notice, he was threatened by the 2nd respondent to evict the premises. Hence, the petitioner has come forward with the present writ petition.

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

4. It is the submission of the learned Senior counsel appearing for the petitioner that no notice or final order has been served by the 2nd respondent enabling the petitioner to file an appeal.

5. Learned counsel appearing for the 2nd respondent submits that they will serve the copy of the notice within 10 days.

6. Considering the submissions made, this Court directs the petitioner to file a reply within 10 days from the date of receipt of such notice. Thereafter, 2nd respondent shall pass an order within one month from the date of receipt of reply. The petitioner is also at liberty to file an appeal within one month from the date of receipt of that order, if he is aggrieved. If any appeal arises, the 1st respondent shall dispose of the same within two months from the date of filing of the appeal. Till the disposal of the appeal, no coercive steps for eviction to be taken.

With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

vsm/mp

To

1. The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George,
Chennai - 9.
2. The Executive Engineer & Administrative Officer
cum Competent authority,
Tamil Nadu Housing Board, K.K. Nagar Division,
Anna Nagar, 2nd Avenue,
Chennai - 600 040.

+1cc to Ms.A.L.Ganthimathi, Advocate SR.No.44358

W.P.No.15072 of 2019
and WMP.No.15048 of 2019

SAI (CO)
GMY (06/06/2019)

सत्यमेव जयते

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