

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2020

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
W.P.No.8903 of 2020
(Heard Through VC)

K.Kasthuri

..Petitioner

Vs.

1. The Tamil Nadu Slum Clearance Board
rep. by its Chairman,
No.5, Kamarajar Salai, Near Vivekananda House,
Iyodia Nagar, Triplicane, Chennai-600 005.

2. N.Rajan

3. Selvi

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent to take appropriate action under Section 57 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 against the respondents 2 and 3 for eviction of the respondents 2 and 3 and restoration of possession of the property bearing Plot No.1711, No.1514, Dr.Ambedkar Nagar, 10th Cross Street, Velacherry, Chennai-600 042, in favour of the petitioner within a time stipulated by this Court.

For Petitioner : Mr.G.Saravanan

For Respondents : Mr.S.Prabhu,
Additional Govt. Pleader for R1

ORDER

With the consent of the learned counsel for the petitioner and the learned Additional Government Pleader for the first respondent, this writ petition is taken up for final hearing at the admission stage itself through Video Conferencing.

2. In view of the following order, this Court proposes to pass, no notice needs to be served on the respondents 2 and 3.

3. The petitioner claims to be the absolute owner of the property bearing Old Plot No.1711, New No.1514, Ambedkar Nagar,

10th Cross Street, Velacherry, Chennai-600 042, measuring an extent of 270 sq.ft., having been allotted with the same by the first respondent on 16.09.1992. She permitted her sister-in-law one Kalyani, who is the mother of the second respondent, to stay in the property and the petitioner and her husband was living along with her ailing mother. The petitioner also claimed that though Kalyani was also allotted with a plot, she sold away the same for domestic purposes. The petitioner's husband Kumar died on 29.03.2011, and thereafter, she asked her sister-in-law to vacate the premises, however, not pursued the demand for sometime. Kalyani died on 03.06.2019. The petitioner also claimed that when she asked the respondents 2 and 3 to vacate the premises, she came to know that based on the forged documents, respondents 2 and 3 claimed right over the property. Hence, the petitioner lodged a police complaint, during the course of investigation of which, it was deliberately stated that a suit was instituted by the said respondents, but without doing so.

4. The petitioner stated that she sent a legal notice dated 10.12.2019 to the respondents 2 and 3 marking a copy to the first respondent, as the first respondent has duty under Section 57 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 (in short, "the Act") to take appropriate action to restore the possession of the said property to the petitioner. She received a reply from the private respondents falsely stating that though the allotment of the subject property was made in favour of the petitioner, she sold the same to them on 10.07.1996 itself. The petitioner stated that as per the allotment conditions, she cannot sell the property to anybody much less to the respondents 2 and 3 and she complied with the conditions of the first respondent in this regard.

5. In such circumstances, the petitioner claimed that she filed a suit in O.S (SR) No.2736 of 2020 on the file of the City Civil Court on 13.02.2020, which was returned on 07.03.2020. Thus, the petitioner is before this Court in this petition.

6. Heard the learned counsel on either side and perused the materials available on record.

7. From the records, it is seen that the petitioner has filed the suit in OS (SR) No.2736 of 2020 before the City Civil Court seeking a direction to the first defendant, who is the first respondent herein, to take appropriate action under Section 57 of the Act against the respondents 2 and 3 for eviction and restoration of possession. The suit has been returned several times on the ground of maintainability, inter alia, relying upon Section 65 of the Act and the last such return was made on 07.03.2020.

8. Learned counsel for the petitioner submitted that he has yet to represent it and he also stated that he would not pursue the same. The said statement is recorded.

9. The learned Standing Counsel for the first respondent would contend that excepting the legal notice dated 10.12.2019, that was sent to the first respondent, the petitioner has not made any request or sent any representation to the first respondent in this regard. Be that as it may, the petitioner is willing to send a representation to the first respondent.

10. Considering the facts and circumstances of the case and the submissions made on either side, this Court, without expressing any opinion on the merits of the case, directs the petitioner to send a representation to the first respondent within a period of two weeks from the date of receipt of a copy of this order, and on receipt of the same, the first respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law, after issuing notice to the petitioner as well as the respondents 2 and 3, who are said to be in occupation of the premises and by affording them an opportunity of personal hearing or virtual hearing or otherwise considering their written objections and after verifying the relevant documents, within a period of eight weeks from the date of receipt of the representation of the petitioner.

11. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Chairman,
The Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai, Near Vivekananda House,
Iyodia Nagar, Triplicane, Chennai-600 005.

W.P.No.8903 of 2020

BR(CO)
KKV/05/08/2020