

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.02.2021
CORAM
THE HONOURABLE Mr. JUSTICE S.S.SUNDAR
W.P. No.37662 of 2016

Gandhiji Podhunala Seva Sangam
(Sl. No.113/2013),
Rep. by its President Mr.M.Babu,
Plot No.401, New No.21, Old No.11,
8th Cross Street, Trustpuram,
Kodambakkam, Chennai - 600 024.
...Petitioner

Vs

- 1.The Chairman,
Tamil Nadu Slum Clearance Board,
Beach Road, Chennai - 600 005.
- 2.The Estate Officer - IV,
Estate Office Area - IV,
Tamil Nadu Slum Clearance Board,
Teynampet, Chennai - 600 018. ... Respondents

Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the respondents to execute a sale deed in respect of the said plot in favour of the petitioner Plot No.401, New No.21 Old No.11 (No.23/11) 8th Cross Trustpakkam, Chennai - 600 024.

For Petitioner : Mr. Perumbulavil Radhakrishnan

For Respondents : Mr. S.Prabu
Standing Counsel

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O R D E R

This Writ Petition is filed for issuing Writ of Mandamus directing the respondents to execute a sale deed in respect of Plot No.401 new No.21 Old No. 11 (No.21/11), 8th cross, Trustpuram, Chennai.)

2. Brief facts that are stated in the affidavit filed in support of this writ petition are as follows:

The petitioner is a society registered in the year 2003 under the provisions of Tamil Nadu Societies Registration Act 1975. The society was formed originally in the year 1961 and it is running a free night school in the plot for which the

petitioner is seeking conveyance from the respondents. The said school was very popular among the poor and downtrodden. The president himself was a beneficiary of the free night school. The petitioner society conducted various functions on Gandhi Jayanthi, Independence Day and Republic day and used to host luminaries to participate in the functions organised by the petitioner. The Society was functioning in a specific plot bearing No.401, New No.21, Old No.11, 8th Cross Street, Trustpuram, Kodambakkam, Chennai, which is having an area of about 880 sq.ft. The society was performing several social service and offering free education to children who belonged to poor families. The society was giving training to women with handicrafts and other crafts so as to augment their family income.

3. The area which is occupied by the petitioner society was under the custody of Tamil Nadu State Housing Board. It is stated that due to some technical issues, the housing board failed to allot the plot in the name of the petitioner and later, the entire area was transferred to Tamil Nadu Slum Clearance Board, the first respondent herein. It is further stated that the present Secretary tried to reconstruct the papers which was originally submitted to the Tamil Nadu State Housing Board, for getting allotment of the plot. Since the society always worked for the benefit and betterment of the society employing Gandhian principles and ideals particularly non-violence and 'sathyagraha', the respondent had allotted the plot to the petitioner in the year 1985 and executed a lease-cum-sale agreement and a monthly sum of Rs.90/- was paid to the Slum Clearance Board. The society constructed a small building with asbestos sheets for roofing the building for conducting the night school apart from other activities. Electricity service connection was obtained in 1985. Despite several attempts made by the petitioner to register the plot in the name of the Society by paying reasonable charges, the respondents were not responding for a long time. Thereafter, the petitioner was informed that no allotment is made for the Society by a communication dated 15.06.2016. Aggrieved by the same, the present Writ Petition is filed.

4. First of all, this Court is unable to find any allotment of plot in favour of petitioner either by the Tamil Nadu State Housing Board or by the Tamil Nadu Slum Clearance Board. The petitioner's grievance as an allottee of plot cannot be entertained. The petitioner has produced before this Court a few representations to Tamil Nadu State Housing Board seeking allotment on the ground that the unregistered society was running a free night school to children of poor and downtrodden. Though several representations were made by the petitioner to the Tamil Nadu State Housing Board, seeking permission to run the said school, the petitioner has not produced any allotment order as such from the Tamil Nadu State Housing Board. From the communications it is seen that the petitioner's society, even before its registration, was

seeking permission for running a school in a plot in which a temporary structure was put up by the petitioner.

5. The petitioner was registered as a society only in the year 2013. Even though the petitioner was seeking assignment or allotment of plot as per the scheme of Tamil Nadu Slum Clearance Board, the representations of the petitioners were rejected only on the ground that the Tamil Nadu Slum Clearance Board are not allotting any plot either for running a Society or for any religious purpose. Merely because the society was registered by showing a particular plot as their official business, the petitioner cannot seek transfer. This Court is not convinced that the petitioner is entitled to allotment of a specific plot even assuming that the petitioner is doing some social activities.

6. This Court, by exercising its extraordinary power under Article 226 of the Constitution of India, cannot issue direction to the respondent for allotting any plot unless the petitioner is able to establish that the respondents have a statutory or a contractual obligation. Merely because the petitioner was doing some social activities in public interest, the petitioner is not entitled to seek the assistance of this Court to get assignment or sale deed from the respondents. A counter affidavit has been filed by the respondents denying the specific averments with regard to allotment. It is stated that the Trustpuram scheme of Tamil Nadu Slum Clearance Board was taken under the Chennai Metropolitan Development Project. Though the scheme was originally mooted by Tamil Nadu State Housing Board, the scheme was later transferred to Tamil Nadu Slum Clearance Board.

7. Though the name of the petitioner was registered in the records as it is in possession of plot No.401, it is stated by the respondents that the plot was never allotted to anybody so far. The petitioner states that the society even before registration was running a night school. However the requirement of a plot for running a night school is not a reality as on date. This Court is unable to consider the request of the petitioner merely because they are doing some activities to promote Gandhian principles. Even if the petitioner is doing some social activities for the benefit of general public that cannot be the sole criteria for directing the respondents to execute a sale deed and to provide specific place or plot for the activities of the society. This Court is unable to find any situation to compel the respondents to allot a plot to the petitioner and is not inclined to entertain this Writ Petition.

8. Even though the learned counsel for the petitioner submitted that the respondents are estopped in law to refuse an allotment, the petitioner is unable to produce enough materials to hold that the respondents have committed earlier

to allot a plot and the society has altered its position to their disadvantage based on such promise. The principle of promissory estoppel cannot be pressed into service in this case and this Court is also not convinced with any right to seek conveyance.

The Writ Petition is therefore dismissed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Chairman,
Tamil Nadu Slum Clearance Board,
Beach Road, Chennai - 600 005.
- 2.The Estate Officer - IV,
Estate Office Area - IV,
Tamil Nadu Slum Clearance Board,
Teynampet, Chennai - 600 018.

+1cc to Mr.Perumbulavil Radhakrishnan, Advocate SR.No. 7040
+1cc to Mr.S.Prabhu , Advocate SR.No. 7580

W.P. No.37662 of 2016

AJB (CO)
A.SK(22.06.2021)

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