



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17235 of 2014

and M.P.No.1 of 2014

M.Chinnathambi

... Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Tamil Nadu Housing Board and Urban
Development Department, Secretariat,
Chennai-600 009.

2.The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai-600 005.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records relating to the G.O. issued by the 1st respondent in G.O.Ms.No.10, Housing and Urban Development (Kuma-2(1)) Department, dated 08.01.2014 and quash the same in so far as the house site belonging to the petitioner in Plot No.67, Bharathiyar Street, Avvai Nagar, Padi, Chennai-600 050 comprised in T.S.No.138/2 in Village No.64, Mugappair Village, Ambattur Taluk, Chennai.

For Petitioner : Mr.J.S.Mahalingam

For Respondent 1 : Mr.K.M.D.Muhilan
Government Advocate

For Respondent 2 : Mr.S.Prabhu
Standing counsel for TNSCB



ORDER

The order passed by the 1st respondent in G.O.Ms.No.10, Housing and Urban Development dated 08.01.2014 is challenged in the present writ petition.

2. The facts in nut-shell to be considered are that petitioner along with some other persons was squatting the government land and the government has decided to form a layout for the benefit of these poor people and allowed the said land in their favour. Accordingly, a scheme was formulated by the Tamil Nadu Slum Clearance Board and necessary layout approval was obtained from the CMDA. As far as the grievance of the writ petitioner is concerned, he paid the cost amount for allotment, which was made in his favour and the sale deed is to be executed in his favour. Thus, the petitioner is constrained to file the present writ petition.

3. The learned counsel appearing on behalf of the respondent submitted that as far as the Plot nos.63 to 67 are concerned, it was earmarked as park for the benefit of the people residing in the locality and therefore, the respondents are not in a position to execute the sale deed in favour of the petitioner in respect of Plot Nos.63 to 67. In this regard, it is contended that the initial allotment in favour of the petitioner was made erroneously by the authorities and that the approval was granted subsequently. However, in the interest of the petitioner and the allottees of Plot Nos.63 to 67, the Slum Clearance Board made an application/representation to the Government and the said application for reviewing the plan approval was also rejected. Thus, the respondents are unable to execute the sale deed in respect of the allottees of Plot Nos.63 to 67.

4. It is brought to the notice of this Court that after the rejection of review of plan approval by the Government, the Slum Clearance Board cancelled the allotment made in favour of the petitioner. Thus, the petitioner cannot maintain the present writ petition seeking the relief of execution of sale deed in respect of the allotment which was already cancelled.

5. The learned counsel appearing on behalf of the respondent made a submission that the Slum Clearance Board soon after the cancellation of the allotment was ready and willing to



repay the amount deposited by the petitioner. However, the petitioner has not approached the authorities for receiving the refund of the deposited amount. Even now, the Slum Clearance Board is ready to repay the amount already deposited by the petitioner.

6. This Court is of the considered opinion that admittedly, the Plot Nos.63 to 67 are earmarked as 'park' and the review application filed by the Slum Clearance Board to review the plan approval was also rejected. Thus, the said plots cannot be allotted in favour of any other persons and the allotments already made were also cancelled. Thus, issuing a direction to execute the sale deed in respect of the land allotted for park cannot be considered by this Court. However, taking note of the fact that the authorities have committed certain errors in allotting the land in favour of the petitioner even before the approval of plan by the CMDA, the case of the petitioner is to be considered for alternate allotment in any other scheme.

7. In this regard, the petitioner is at liberty to submit a fresh application for allotment of tenement in any one of the scheme and in the event of filing any such application, the case of the petitioner is to be considered taking note of the fact that the petitioner has already deposited the amount and the plot allotted in his favour was cancelled. The said exercise is to be done on a priority basis as the petitioner has deposited the amount for the tenement. Further, it is made clear that in the event of providing any alternate tenement, the petitioner has to vacate the land which is already earmarked for park.

8. With these directions, the writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

ars/mka



To

1.The Secretary to Government,
Tamil Nadu Housing Board and Urban
Development Department, Secretariat,
Chennai-600 009.

2.The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai-600 005.

+1cc to M/s.S.Prabhu, Advocate, S.R.No.54056

+2cc to Mr.J.S.Mahalingam, Advocate, S.R.No.53741

+1cc to the Government Pleader, S.R.No.53890

W.P.No.17235 of 2014
and
M.P.No.1 of 2014

RSI(CO)
SB(02/11/2021)