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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22166 of 2021
and
W.M.P.No.23400 of 2021

Mr.A.Stalin

... Petitioner

Vs.

The Executive Engineer,
Tamil Nadu Slum Clearance Board,
Division-III,
Vyasarpadi, Chennai-600 039.

... Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent culminating in its order dated 24.09.2021 in proceedings Na.Ka.No.580/AE/SUB.DIV-4/DIV-3/2021, quash the same.

For Petitioner : M/s.C.T.Mohan

For Respondent : Mr.Prabru
Standing Counsel

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records of the respondent culminating in its order dated 24.09.2021 in proceedings Na.Ka.No.580/AE/SUB.DIV-4/DIV-3/2021, quash the same.

2.The case of the petitioner is that the respondent board allotted the vacant land situated in Survey No.330/1 vide proceedings dated 22.05.2006 in Na.Ka.No.B1/23020/2005 for a monthly rent of Rs.281/-. Subsequently the lease has been renewed on 01.04.2019 for a period of three years till 31.03.2022. Thereafter, on 17.08.2020, the respondent board



asked the occupants in Survey Nos.330/2, 330/3, 330/4, 327/25 and 26 situated on the northern side of the petitioner's shop to vacate and handover the possession so as to enable them to demolish and reconstruct the dwelling units and have also demolished the entire dwelling units but they have not taken any steps to reconstruct the units . Thereafter, the respondent officials demanded the petitioner to vacate the property and also threatened the petitioner that they would forcibly evict him and pull down the existing superstructure.

3.It is further submitted by the petitioner that the respondent refused to receive the rents. Thereafter, the petitioner filed a writ petition in W.P.No.17153 of 2021 and the same was disposed on 17.08.2021 on the ground that no notice has been served on the petitioner and the respondents gave an undertaking that they will initiate the proceedings after following the due process of law. While being so, the petitioner received a demand notice ante dated 23.07.2021 to show cause as to why the eviction proceeding should not be initiated against him. Thereafter, the petitioner made complaint before the Chairman cum Managing Director on 03.09.2021, after which the respondent immediately issued Form-A dated 07.09.2021 to vacate the property and to hand over possession to them. The petitioner made a representation dated 13.09.2021 to the notice Form-A requesting them to withdraw the notice dated 07.09.2021 as the petitioner has not violated any conditions imposed by the respondent board and has not illegally encroached 200 sq.ft as alleged in the demand notice dated 07.09.2021 and thereafter, on 24.09.2021 vide proceedings Na.Ka.580/ AE/ SUB.Div-4/Div-3/2021, the respondent has served Form-B/impugned order on the petitioner to vacate the property within a period of 15 days. Challenging the same, this Writ petition is filed.

4. The learned counsel appearing for the petitioner submitted that no notice was served on the petitioner and they have not proceeded by following the due process of law. He further submitted that the petitioner paid the rent regularly and the respondents have threatened the petitioner that they will evict the petitioner forcibly if necessary. He further submitted that, it would suffice, if this Court may grant interim stay of all further proceedings of the respondent in pursuant to the impugned order Form-B dated 24.09.2021 in Na.Ka.580/ AE/ SUB.Div-4/Div-3/2021 till disposal of the above petition.

5.The learned counsel appearing for the respondent submitted that there are ten shops including the petitioner's bunk of



which already nine of them have vacated and in fact some of them voluntarily handed over the shops for the reconstruction. He further submitted that no assurance was given as the shops/bunks were allotted as per the recommendations of the Slum Clearance Board. He also fairly conceded that if any preference is given to any of the nine shops/occupants(already vacated), the same shall be given to the petitioner as well.

6. The learned counsel for the petitioner in reply submitted that this Court may issue direction to the respondent to pay the balance amount if any and also to give preference for future allotment, if any is given to other nine shops/previous occupants.

7. Heard the arguments advanced on either side.

8. Considering the facts and circumstances of the case, though the lease period was extended for a period of three years, however, for reconstruction of new building, the respondent served Form-A and B on petitioner. The learned counsel for the respondent claims that out of ten shops, nine of them voluntarily handed over the shop for reconstruction. When such being the position, this Court cannot give any special treatment to the petitioner. Hence, this Court is not inclined to interfere with the order passed by the respondent dated 24.09.2021.

9. Accordingly, this Writ petition is dismissed. However, this Court issues direction to the respondent to refund the balance amount, if any, deposited by the petitioner and further if any preference is given to the other people after reconstruction, the same may be given to the petitioner also. No costs. Consequently, connected miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR



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To

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The Executive Engineer,
Tamil Nadu Slum Clearance Board,
Division-III,
Vyasarpadi,
Chennai-600 039.

+1cc to Mr.S.Prabhu, Advocate Sr.60178

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and
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