

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.03.2021
CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.29315 of 2018

Dayabaran

... Petitioner

Vs

The Chairman,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai,
Chepauk,
Chennai - 600 005.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the respondent to consider petitioner's representation dated 06.09.2018 and to re-allot a Flat in the Apartments owned and constructed by the Tamil Nadu Slum Clearance Board, the respondent herein at the said place where I formerly resided at Door No.117, Moorthingar Street, Vysarpadi, Chennai - 600 039.

For petitioner ... Mr.P.Balamurugan
For respondent ... Mr.S.Prabhu

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the respondent to consider the petitioner's representation dated 06.09.2018 seeking for re-allotment of a Flat in his favour in the Apartments owned and constructed by Tamil Nadu Slum Clearance Board at Door No.117, Moorthingar Street, Vysarpadi, Chennai - 600 039.

2. It is the case of the petitioner that he was an occupant of a Flat in the aforementioned address. According to him in the year 2016, the officials of the respondent directed him to vacate his Flat on the ground that the respondent / Slum Clearance Board are going to demolish the building and reconstruct a new one. It is also the case of the petitioner that on reconstruction, he was offered a new flat by the respondents. However, it is his case that despite several representations, the respondent Slum Clearance Board has not reallocated the Flat to the petitioner in the new building. In such circumstances, this writ petition has been filed.

3. A counter affidavit has been filed by the respondent denying the allegations of the petitioner. They would submit that the residents of the subject slum were enumerated in 2010 and were issued photo identity cards along with temporary allotment orders in the proposed tenements scheme in the same area. According to the respondent, the photo identity cards were issued to those, who had proof of residence, viz., Ration card, Voter identity card etc., in the scheme area who have been vacated from the scheme area during the year 2014. According to the respondent, the petitioner does not possess the necessary identity cards, since he was not a resident of the subject slum. According to the respondent, no temporary allotment letter with photo identity card was also issued by the respondent to the petitioner. A categorical stand has been taken by the respondent in their counter affidavit that the petitioner was not evicted by the respondent Slum Clearance Board from Moorthingar Street in the same area. According to them, the petitioner is not entitled for reallocation as he was not a resident of the subject slum area. It is also their case that newly constructed tenements have already been allotted by the respondent to the slum dwellers and the petitioner is not entitled for any allotment.

4. Heard Mr.P.Balamurugan, learned counsel for the petitioner and Mr.S. Prabhu, learned Standing counsel for the respondent / Tamil Nadu Slum Clearance Board.

5. The petitioner has filed the copies of the following documents before this Court in the Typed set of papers :

- a) Petitioner's Driving License valid upto 25.03.2007, dated 17.03.2004.
- b) Ration card for the year 2005-2009
- c) Indian Overseas Bank pass book showing that the account opened in the name of the petitioner on 25.11.2005.
- d) Petitioner's Driving License valid upto 22.03.2012, dated 23.03.2007
- e) Driving Licence pertaining to the son of the petitioner dated 20.06.2009
- f) Driving License valid upto 16.03.2013, dated 10.03.2010.
- g) Permission letter dated 04.04.2014 issued to the petitioner to fix LPG for his Auto.
- h) Permission issued to the petitioner on 17.04.2014 for contract carriage services
- i) Certificate of Registration of vehicle, dated 17.04.2014
- j) Letter dated 12.01.2015 addressed to the Assistant Engineer, Vyasarpadi Village along with acknowledgment card dated 22.04.2015.

k) Petitioner's Driving License valid upto 16.03.2019, dated 18.03.2016

l) Letter sent by the petitioner to the C.M. cell on 4.07.2016, which was duly acknowledged on 11.07.2016.

m) Petitioner's representation dated 06.09.2018 to the respondent, which was acknowledged by them on 10.09.2018.

6. As seen from the aforementioned documents, the Ration card produced by the petitioner is only for the period from 2005-2009, which discloses the address, where the subject slum was located. The petitioner has not produced the Ration card / Family card for the subsequent years from 2009 onwards. It is the contention of the petitioner that he was a resident of the subject slum till 2016, when according to him, the respondent / Slum Clearance Board called upon him to vacate the premises as they intended to demolish the existing building. However, the respondent has contended that all the occupants of the various tenements in the subject slum were provided with identity cards. Admittedly, the petitioner has not produced before this Court any photo identity card issued to him by the respondent Slum Clearance Board to establish his case before this Court that he was in occupation of tenement in the year 2016, when the respondent Slum Clearance Board had demolished the existing building. Excepting for producing the Family card which pertains to the year 2005-2009 and other documents viz., Driving Licence, Indian Overseas Bank passbook and other documents filed along with the typed set of papers, which does not establish the petitioner's case that he was an occupant of the tenement at 117, Moorthingar Street, Vysarpadi, Chennai - 39 in the year 2016, no documentary evidence has been produced by the petitioner to prove his case that he was a resident of the aforementioned area in the year 2016.

7. The petitioner has also given a representation seeking for reallocation of a flat with the respondent only on 06.09.2018 even though according to the petitioner as seen from the affidavit filed in support of this writ petition, the building was completed by the respondent Slum Clearance Board in the year 2016 itself.

8. This Court is of the considered view that there are several disputed questions of fact involved in this writ petition, when the respondent has categorically denied the petitioner's entitlement and when there is no documentary evidence available before this Court to establish that the petitioner was a resident of the subject slum area in the year 2016, when the building was demolished, this Court under Article 226 of the Constitution of India cannot adjudicate the dispute as there are several disputed question of fact involved in the

case. If at all the petitioner has any remedy, he can only approach the Civil Court.

9. In the result, there is no merit in this writ petition. Accordingly, the writ petition is dismissed. No costs.

10. The learned counsel for the petitioner seeks liberty of this Court for the petitioner to approach the Civil Court to redress his grievance. The said liberty is granted by this Court.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vs12

To

The Chairman,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai,
Chepauk,
Chennai - 600 005.

+1cc to Mr.S.Prabhu, Advocate, S.R.No.16348.

PL(CO)
CSR 29.03.2021

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