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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.612 OF 2014

V.Dhakshinamruthy

... Petitioner

.Vs.

1. The Chennai Metropolitan Development Authority,
Represented by its Member Secretary,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
2. The Chief Executive Officer,
Chennai Metropolitan Development Authority,
Represented by its Chairman,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
3. The District Collector,
Kanchipuram.
4. The Tahsildar,
Chengalpattu.

... Respondents

(R3 and 4 suo motu impleaded vide
Court order dated 01.11.2018 by VBDJ)

PRAYER:-

The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to allot the Plot No.09, Block No.16, in Maraimalai Nagar NH-III MIG as an alternative to the earlier allotted Plot No.B-2/16 in Maraimalai Nagar, NH-I-B Block, Kattankolathur at Maraimalai Nagar.

(Prayer amended vide order dated 22/04/2022 made in W.M.P.No.33877 of 2018 in W.P.No.612 of 2014 by MGRJ)

For Petitioner : Mr.M.Raja Sekhar



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For Respondents : Ms.P.Veena Suresh
Standing Counsel
For R1 and 2

Mr.G.Krishnaraj
Additional Government Pleader
For R3 and 4

O R D E R

The petitioner was allotted plot at Maraimalai Nagar, Kattankulathur NHI/Town in the year 1999. But the said plot was encroached. Since there was encroachment the Plot No.9, Block No.16, in Maraimalai Nagar NH-III MIG allotted in favour of the petitioner could not be handed over to the petitioner. This Court appointed an Advocate Commissioner for the purpose of handing over the property Plot No.9, Block No.16, in Maraimalai Nagar NH-III MIG allotted in favour of the petitioner in the presence of officials of the respondents. During the inspection of the the Advocate Commissioner, it is reported that more than 100 villagers have surrounded her as well as the officials of Chennai Metropolitan Development Authority (CMDA) and they opposed and objected to inspection of the property in question. The Police officials who accompanied the Advocate Commissioner and officials of CMDA could not do anything and they were helpless. From the report it is noted that handing over possession of the property is not possible due to the obstruction made by the entire village.

2. The Hon'ble First Division Bench of this Court in a similar circumstances, in W.A.Nos.530,535 and 537 of 20222 dated 16.03.2022 passed the following order:

" 2. The facts of the case show that the respondents allotted plots to the appellants on certain terms and conditions, pursuant to which, the appellants paid a substantial amount, as otherwise, delay was to attract penal interest apart from regular interest. After the issuance of the letters of allotment, the possession thereupon could not be given by the respondents as encroachments on the lands were found, which are fortified by the report of the Advocate Commissioner appointed by the Court.

3. In the light of the aforesaid, the appellants ought to have approached the authorities to allot alternate plots than the plots allotted to them in view of the fact there are encroachments. In case the plots allotted to the appellants are



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maintained, they would not get possession of the lands unless it is free from encroachment and it may even take time. Therefore, as prayed by learned counsel for the appellants, we are disposing of these appeals without causing interference with the order of the learned Single Judge, but with a clarification that pursuant to the direction in this judgment, the appellants may approach the respondents for allotment of alternate plots, after surrendering the plots allotted to them, if the encroachments in the land cannot be removed immediately.

4. In case the appellants approach the respondents for the aforesaid, the authorities concerned would immediately take a decision for allotment of alternate plots, obviously on payment of due amount as per the terms and conditions of allotment and if there is any deviation in the site, namely, if the plot size is bigger or smaller, appropriate adjustment of the amount either by taking additional amount or by returning the amount, as the case may be, would be made. However, decision in this regard would be taken at the earliest, in any case, not beyond the period of four months from the date of receipt of the representation, along with a copy of this order. There will be no order as to costs. Consequently, CMP Nos.3883, 3884, 3900, 3902 and 3921 of 2022 are closed."

3. The issue on hand in the present writ petition is squarely covered by the judgment of the Hon'ble First Division Bench of this Court. I respectfully follow the very same order and direct the petitioner to approach the respondents and a further direction to the respondents to immediately take a decision for allotment of alternative plots subject to adjustment of money preferably in the same layout at Kattankolathur.

4. Writ petition is disposed of with the above direction. There shall be no order as to costs.

Post for reporting compliance on 15.06.2022.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar



To

1. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

2. The Chairman,
The Chief Executive Officer,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

3. The District Collector,
Kanchipuram.

4. The Tahsildar,
Chengalpattu.

+1cc to Mr.M.Raja Sekhar, Advocate, S.R.No.27603 (21/06/2022)

W.P.NO.612 OF 2014

AD(CO)
PBS/24/05/2022