



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.15675 of 2020
and
W.M.P.No.19521 of 2020

L.Muneeswari

...Petitioner

vs.

1. The Tamil Nadu Slum Clearance Board,
Rep. by its Chairman,
Kamarajar Salai, Chennai -5.
2. The Secretary & Personnel Officer,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai, Chennai -5.
3. The Estate Officer,
The Estate Office -5,
Tamil Nadu Slum Clearance Board,
T.P.Chatram, Chennai -10.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for records in Se.Mu.Ka.No.E5/17743/2019 dated 03.10.2020 issued by the second respondent and to quash the same with consequential direction to the respondents to include her name in the sale certificate in respect of property situated in Plot No.22, D.No.8/15, Ambedkar Street, Shenoy Nagar, Chennai- 30 within time frame.

For Petitioner :M/s.K.Jenitha

For Respondents :Mr.R.Sivakumar



ORDER

The petitioner has filed this writ petition seeking issuance of a Writ of Certiorari Mandamus, to call for records of the impugned order dated 03.10.2020 passed by the 2nd respondent in Se.Mu.Ka.No.E5/ 17743/ 2019 and consequently to direct the respondents to include the petitioner's name in the sale certificate in respect of property situated in Plot No.22, D.No.8/15, Ambedkar Street, Shenoy Nagar, Chennai- 30.

2. The case of the petitioner is that, she is temporarily residing at No.108/2, West Colony, ICF, Chennai-38. The above said property in Plot No.22 was originally allotted to the petitioner's maternal grandmother late Mrs. Kannammal. The petitioner's mother viz., Mrs.Thavamani is the only daughter of the said Mrs.Kannammal and the property was inherited to the petitioner's mother. The petitioner's mother died on 31.12.2003 leaving behind her two daughters i.e., the petitioner and her sister viz., Mrs.Amutha as her legal heirs. After the demise of the petitioner's mother, the petitioner was in possession of the property. While so, the petitioner's sister instigated the petitioner for constructing a pucca house in two portions, hence, the petitioner shifted her residence. Thereafter, the petitioner's sister forged the documents for getting a sale certificate.

3. While so, without knowing the above said act of her sister, the petitioner made an application for home loan and the bank after enquiry informed the petitioner that her sister name alone is available in the sale certificate. Immediately thereafter, the petitioner made a representation dated 26.11.2019 before the 3rd respondent to include petitioner's name along with her sister's name in the sale deed, however, since no orders have been passed on the said representation, the petitioner filed a W.P.No.34897 of 2019 and this Court vide its order dated 17.12.2019 directed the respondent to consider the petitioner's representation and pass order on the same after conducting further enquiries. Hence, in pursuance of the order passed by this court, the 3rd respondent conducted an enquiry and report was sent to the 2nd respondent. Thereafter, the 2nd respondent passed an impugned order dated 03.10.2020 in Se.Mu.Ka.No.E5/17743/2019, rejecting the petitioner's claim. Hence, aggrieved by the said rejection order, the petitioner filed the present writ petition.

4. The learned counsel for the petitioner submitted that, the petitioner's mother said Thavamani inherited the said property from her mother, said Mrs. Kannammal / maternal



grandmother of the petitioner and the petitioner and her sister are the only legal heirs of the said Thavamani / mother of the petitioner. However, the petitioner's sister by forging the documents, obtained the sale certificate in her name alone. Thereafter, the petitioner approached this Court and in pursuant to the order of this Court, the 2nd respondent passed the impugned order dated 03.10.2020, rejecting the petitioner's claim solely on the ground that, the petitioner has made No Objection Certificate (in short NOC) in favour of her sister. Hence, this Court on the earlier occasion directed the respondents to produce the original records to verify whether the petitioner has made any NOC in favour of her sister.

5. Though contentions were raised, since the matter pertains to submission of certain documents, on the earlier occasion, this Court directed the learned counsel for respondents to produce the original documents and pursuant to the said order, the original records were produced. On perusal of the records, it is pertinent to note that, only the Xerox copy of the affidavit is available and there was some correction in the name of the petitioner and further no original copy of the letter given by the petitioner as well as the affidavit executed by the petitioner in favour of her sister is available on the records submitted. In such situation, alleging that the petitioner made an affidavit / NOC in favour of her sister is not sustainable.

6. Hence, this Court sets aside the impugned order dated 03.10.2020 in Se.Mu.Ka.No.E5/17743/2019 passed by the 2nd respondent and remands the matter to the 2nd respondent. The 2nd respondent shall hear the petitioner and her sister and pass appropriate order in accordance with law within a period of six months from the date of receipt of a copy of this Court.

7. With the above directions, this Writ petition is allowed. No costs. Consequently connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

skt



To:

1. The Chairman,
The Tamil Nadu Slum Clearance Board,
Kamarajar Salai, Chennai -5.
2. The Secretary & Personnel Officer,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai, Chennai -5.
3. The Estate Officer,
The Estate Office -5,
Tamil Nadu Slum Clearance Board,
T.P.Chatram, Chennai -10.

+lcc to M/s.K.Jenitha, Advocate SR.No.5478
+lcc to Mr.R.Sivakumar, Advocate SR.No.5397

W.P.No.15675 of 2020
and
W.M.P.No.19521 of 2020

GPL(CO)
CB(16/03/2022)