



W.A. No.2507 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2022

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THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.A. No.2507 of 2022

Tamil Nadu Slum Clearance Board,
rep. By its Managing Director,
Kamarajar Salai,
Chennai 600 005

... Appellant

Vs

1.Arulmighu Semathamman &
Anantheeswara Thirukoil
rep. By its Executive Officer,
Perambur, Chennai 11

2.The Commissioner,
H.R. & C.E., Nungambakkam,
Chennai

... Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent to set aside the order dated 27.07.2022 in WP No.375 of 2016

For the Appellant :: Mrs.G.Thilakavathi,
Senior Counsel,
for Mr.G.Sivakumar

For the Respondents :: Mr.R.Shanmugasundaram,



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W.A. No.2507 of 2022

Advocate-General,
assisted by
Mr.N.R.R.Arun Natarajan,
Special Government Pleader,
Ms.A.G.Shakeenaa,
for respondents 1 and 2

JUDGMENT

(Made by the Hon'ble Acting Chief Justice)

This appeal is filed against the order of the learned Single Judge dated 27.07.2022 in WP No.375 of 2016.

2. Mrs.Thilagavathi, learned Senior Counsel appearing for the appellant Tamil Nadu Slum Clearance Board, assailing the reasons given by the learned Single Judge, argued that the appellant needs to comply with the conditions mentioned only in Section 3 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971. Moreover, when the land belongs to the first respondent temple, the temple is concerned with the payment of suitable compensation, which is also reasonably offered by the Slum Clearance Board to the temple. The learned Single Judge, overlooking the object for which the land is notified, ought not to have found fault with the appellant for not following the conditions mentioned in the proviso to Section 11 of the

Page 2 of 6



W.A. No.2507 of 2022

Act. When the appellant is also ready to make compensation to the owner of the land viz., the first respondent, the learned Single need not have taken a hyper-technical approach.

3. We are unable to countenance the submissions made by Mrs.Thilagavathi. Even Section 3 of the Act of 1971 makes the position clear that where the Government are satisfied that the building in any area, used or intended to be used for human habitation are in any respect, unfit for human habitation; or by reason of dilapidation, over-crowding, faulty arrangement and design of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities, or any combination of these factors, detrimental to safety, health or morals, they may by notification, declare such area to be a slum area. The proviso to Section 11 of the Act of 1971 says that before issuing such notification the Government shall call upon the owners of the land and buildings in such slum area to show cause why such declaration should not be made and after considering the cause, if any, shown by such owners, the Government may pass such orders as they may deem fit.



W.A. No.2507 of 2022

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4. In the present case, since the proviso to Section 11 of the Act has not been followed, learned Single Judge has rightly come to the conclusion that the appellant shall comply with the mandatory provisions mentioned in Section 11 of the Act because even in our view also, without acquiring the land in question, as per Section 11 of the Act, Government cannot issue declaration under Section 3 of the Act of 1971.

5. Mr. Shanmugasundaram, learned Advocate-General appearing for the respondents referring to Section 17 of the Act submitted that the learned Single Judge also has rightly given liberty to the Tamil Nadu Slum Clearance Board to pursue the Government to exercise the power under Section 17 of the Act to acquire the land by paying presenting market value. Therefore, there is no difficulty on the part of the appellant to follow the directions given by the learned Single Judge in the impugned order.

6. We are also in agreement with the finding and conclusion reached by the learned Single Judge. Finding no merit in the writ



W.A. No.2507 of 2022

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appeal, we dismiss the same. There will be no order as to costs.

Consequently, CMP No.19509 of 2022 is closed.

(T.R., ACJ.) (D.K.K., J.)
18.11.2022

Index: Yes/No
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To

- 1.The Executive Officer,
Arulmighu Semathamman &
Anantheeswara Thirukoil
Perambur, Chennai 11
- 2.The Commissioner,
H.R. & C.E., Nungambakkam,
Chennai



WEB COPY



W.A. No.2507 of 2022

T.RAJA, ACJ,
and
D.KRISHNAKUMAR, J.

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W.A. No.2507 of 2022

18.11.2022