



W.P. No. 4722 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2022

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

W.P. No. 4722 of 2017

and

W.M.P. No. 4946 of 2017

Balaiah,
S/o. Chinna Kannu @ Kannu

... Petitioner

Versus

The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai,
Chennai-600 005.

... Respondent

PRAYER : Writ Petition filed under Art. 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order dated 06.09.2016 in Na.Ka.No.G1/7712/2016 passed by the respondent and quash the same and consequently direct the respondent to allot and hand over one flat in “Powerkuppam Pagudhi-1” situated at Kasipuram 'A' Block, Royapuram, Chennai-600 013 to the petitioner as per allotment order issued by the respondent in Na.Ka.No.G2/30201/84.



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For Petitioner : Mr.L.Chandrakumar
For Respondent : Mr.S.Karthikeyan

ORDER

This Writ Petition has been filed challenging the impugned order dated 06.09.2016 passed by the respondent and quash the same and consequently directing the respondent to allot and hand over one flat in “Powerkuppam Pagudhi-1” situated at Royapuram, Chennai to the petitioner as per allotment order issued by the respondent.

2. It is the case of petitioner that he is a resident of Royapuram and fifty years ago, his father one Chinna Kannu @ Kannu built a thatched house and lived with their family in Kasipuram 'A' block, Royapuram, Chennai. During the year 1986, the respondent Board officials approached his father and requested him to provide his land for construction of new quarters and also given undertaking that they will allot one flat to their family in the newly constructed quarters. Accordingly, his father hande over the land to the respondent and the



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respondent Board has allotted a Flat No.391 to the father of petitioner in the month of June 1998, however, he died on 26.07.1994. After construction of new quarters, the respondent board did not hand over any flat to their family. Therefore, the petitioner sent a representation dated 07.03.2016 to the respondent and the same was rejected mainly on the ground that the petitioner is not residing in the above flat and they have made representation after 19 years. Challenging the said order, the petitioner has filed this Writ Petition.

3. The learned counsel appearing for respondent board submits that as per counter, it is admitted that the original allotment made in favour of petitioner's father and thereafter, the new tenements were reconstructed and the flats were allotted to those who were residing in the old tenements. Since the petitioner was not residing in the allotted flat, he was not provided with the identity card for allotment. Further, the representation was made after 19 years. Therefore, he opposed this Writ Petition.



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4. When the matter came up for hearing in the last occasion, this court directed the respondent board to file an affidavit. In pursuant to the same, he filed affidavit stating that if the petitioner makes a fresh representation to the respondent Board, after conducting enquiry, if he is eligible, then the Board is ready to allot a tenement to him in any of the tenement scheme available provided he pays any beneficiary contribution towards the allotment based on his fresh representation. Accordingly, he prayed to record the affidavit.

5. The learned counsel for petitioner would submit that such affidavit has been filed only in order to defeat the right of petitioner. According to him, similarly placed person, who was not residing in the locality, gave representation later, a flat was allotted. To substantiate his stand, he has filed the copy of order of respondent dated 29.01.2018. The learned counsel for respondent would submit that they will consider the representation of the petitioner and if the petitioner is eligible, certainly they will allot a flat in any of the area. However, he could not refute the order dated 29.01.2018 passed by the respondent Board.



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6. Heard and considered rival submissions made by learned counsel appearing for petitioner as well as respondent and perused the records.

7. On perusal of the order dated 29.01.2018, it would reveal that in a similar case, representation of one Shanthi was considered and it is also after 19 years of original allotment, the order was passed allotting a flat to the said Shanthi. Therefore, when the similar case has been considered by the respondent Board, there cannot be any discriminatory stand or different stand in respect of Writ Petitioner. When the Board was able to allot in the same locality for the similarly placed person, now they cannot take a stand that they will allot in other area only in the event of the petitioner being eligible. Such stand, in fact, would indicate that the intention of the respondent board is only to defeat the right of petitioner. In such view of the matter, the order of respondent board rejecting the petitioner's representation dated 06.09.2016 is set aside and the respondent board is directed to allot a flat, as the respondent has already allotted a similar flat to one Shanthi, who is also similarly placed person.



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Accordingly, the respondent Board shall allot a flat in favour of petitioner. Furthermore, it is admitted by both sides that this Court while passing interim order directed the respondent board to reserve one flat. In such view of the matter, the respondent is directed to allot reserved flat to the petitioner on payment of necessary charges as per the rules. Such exercise shall be completed within a period of four months from the date of receipt of copy of this order. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

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Index: Yes/No
Internet: Yes/No
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To

The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai,
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N.SATHISH KUMAR, J.

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