



WEB COPY



WA No.290 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B. BALAJI

WA No.290 of 2020

S.Karthikeyan

...

Appellant

versus

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

2.The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk, Chennai- 600 005.

3.Estate Officer -6,
Tamil Nadu Slum Clearance Board,
No.212, R.K.Mutt Road,
Chennai 600 004.

4.P.Jawahar

... Respondents



WA No.290 of 2020

PRAYER: Writ Appeal filed against the order of the learned Single Judge dated 27.09.2019 in WP No.40855 of 2015.

For the Appellant : Mr.P.Satheesh Kumar
For the Respondents : Mr.G.Venkatesan
Standing Counsel for
respondent Nos.1 to 3
Not ready notice Reg R4

JUDGMENT

(Judgment of the Court was made by *D.KRISHNAKUMAR, J.*)

Writ Appeal has been filed against the order of the learned Single Judge dated 27.09.2019 in WP No.40855 of 2015.

Brief facts of the case:

2.1.According to the appellant, originally allotment was made by the Housing Board in favour of one Alphonse in Plot No.304, Door No.48, New No.91, Second Trust Main Road, Mandavelipakkam, Chennai 600 028. After the demise of the said Alphonse, his wife Annamary is the sole legal heir of the deceased Alphonse. Due to some administrative reasons, the housing board has handed over the administration to the Slum Clearance Board. Thereafter, the Slum Clearance Board had collected the land cost, by



WA No.290 of 2020

installments from the above said Annamary. Subsequently, Annamary sold the said plot to one Jawahar/fourth respondent, without obtaining permission from the respondent Board. Thus, the respondent Board had cancelled the said allotment order. Thereafter, the said plot was allotted to one Raji and the same also came to be cancelled. It is the case of the appellant/petitioner that the appellant/petitioner has been the tenant of the fourth respondent Jawahar from the year 1989 and he has been in continuous occupation of the said plot.

2.2. According to the appellant/petitioner, the said Jawahar/fourth respondent filed RCOP No.1370 of 2004 before the Small Causes Court, Chennai seeking eviction of the appellant/petitioner on the ground that he had made a willful default in payment of monthly rent towards the said property from January 2004 onwards. The said petition was allowed on 23.03.2006 in favour of Jawahar/fourth respondent herein. Against the said order, the appellant/petitioner had filed an appeal before the Rent Control Appellate Authority in RCA No.385/06 before the Small Causes Court, Chennai and the same was dismissed by judgment dated 13.07.2012



WA No.290 of 2020

confirming the order in RCOP No.1370 of 2004. Against the said judgment, the appellant had filed a civil revision petition in CRP(NPD) Nos.3428 and 3429 of 2012 before this Court.

2.3. The appellant subsequently made a representation dated 12.02.2014 to allot the plot in question to him. Since the said representation was not considered by the respondent board, the appellant/petitioner has filed a writ petition in WP No.13652 of 2015 with a prayer to direct the Tamil Nadu Slum Clearance Board to consider his representation dated 12.02.2014 to allot the plot in question in his favour. This Court, by order dated 30.04.2015, directed the Tamil Nadu Slum Clearance Board to dispose of the representation made by the appellant/petitioner. Pursuant to the said order of this Court, the Tamil Nadu Slum Clearance Board by letter dated 24.11.2015, has rejected the representation of the appellant/petitioner. Against the said order, the appellant/petitioner has filed WP No.40855 of 2015, seeking a direction to quash the order dated 24.11.2015 and to direct the Tamil Nadu Slum Clearance Board to allot the plot in question in his favour.



WA No.290 of 2020

WEB COPY

2.4. While so, this Court, by order dated 22.03.2017, had allowed the CRP(NPD) Nos.3428 and 3429 of 2012 by holding that landlord and tenant relationship is established and in view of the bar, under Section 29 of the Tamil Nadu Slum Areas (Improvement and Clearence) Act, 1971 read with Section 3 (g)(i) of the said Act, and as the board has not been arrayed as a party in the said RCA and thus the order of the appellate authority was set aside and the said civil revision petition came to be allowed. That being so, this Court, by order dated 27.09.2019, dismissed the writ petition in WP No.40855 of 2015 filed by the appellant/petitioner. Aggrieved by the order passed by the Writ Court, the appellant/petitioner has filed the present intra court appeal before this Court.

3. The learned counsel for the appellant/petitioner submitted that originally the plot in question was allotted in favour of one Alphonse and subsequent to his death, his wife Annamary became the sole legal heir for the said plot in question, and she sold the said plot to Jawahar/fourth respondent herein without obtaining permission from the respondent Board.



WA No.290 of 2020

Therefore, the respondent Board has cancelled the said allotment order granted in favour of the said Annamary. On cancelling the allotment, the said plot was allotted to one Raji and the same was also cancelled by the Board. He further submitted that the appellant/petitioner has given a representation on 10.03.2003 to the Tamil Nadu Slum Clearance Board stating that he is in occupation of the property in question from the year 1989 onwards and the appellant has been the tenant of the fourth respondent Jawahar continuously from the year 1989 and even as on date, he is in occupation of said plot. Therefore, seeks for allowing the writ appeal.

4. The learned Standing Counsel for the respondents 1 to 3 has submitted that the appellant/petitioner has been unauthorizedly in occupation of the plot in question for the past 23 years, even though he claims to be a tenant under the fourth respondent herein and whereas in the eye of law, the fourth respondent is not at all an allottee under the respondent board. Thus, the appellant/petitioner does not have any legal right to claim allotment of the plot in question in his favour. Therefore, seeks for dismissal of the writ appeal.



WA No.290 of 2020

5. In view of the above submission made by the learned Standing Counsel for the respondents 1 to 3, the appellant/petitioner is not entitled to any relief and therefore, we are not inclined to interfere with the order of the Writ Court and the writ appeal is liable to be dismissed. However, liberty is granted to the appellant/petitioner to make a fresh representation to the authority concerned for fresh allotment to the respondent-Board, within two weeks from the date of receipt of a copy of this order. We also make it clear that if the appellant/petitioner is eligible and satisfies the terms and conditions of the Board, his request may be considered by the respondent-Board for allotment of the plot in question, as a special case.

6. With the above observation, the writ appeal stands dismissed. There will be no order as to costs. Consequently, CMP No.4924 of 2020, is closed.

[D.K.K., J.] [P.B.B., J.]
07.09.2023

Index : Yes/No
Neutral Citation : Yes/No
mrn

D.KRISHNAKUMAR, J.
and



WEB COPY



WA No.290 of 2020

P.B. BALAJI

(mrn)

To

1.The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk, Chenna-600 005.

2.The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk, Chennai- 600 005.

3.The Estate Officer -6,
Tamil Nadu Slum Clearance Board,
No.212, R.K.Mutt Road,
Chennai 600 004.

WA No.290 of 2020

07.09.2023