



W.P.No.2559 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

CORAM

MR.JUSTICE N.SESHASAYEE

W.P.No.2559 of 2019
and W.M.P.No.3028 of 2019

S.V.Balakrishnan

... Petitioner

Vs.

1.The Chairman and Managing Director,
Tamil Nadu Slum Clearance Board,
5, Kamarjar Salai,
Chennai – 600 005.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
CMDA Thalamuthu Natarajan House,
No.1, Gandhi Irwin Road, Ansari Estate,
Egmore, Chennai – 600 008.

... Respondents

(R2 impleaded Vide order dt. 15.06.2023
made in WMP.16944/2023 in WP.2559/2019
by MDIJ)

PRAYER: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned letter bearing Na.Ka.No.E1/1722/2014 dated 27.12.2017 quash the same as non-est in the eye of law and consequently direct the Respondent herein namely the Chairman and Managing Director, Tamil Nadu Slum Clearance



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Board, No.5, Kamarajar Salai, Chennai 5, to issue Allotment Letter and to register the sale deed in the name of the Petitioner Thiru.S.V.Balakrishnan, S/o.S.Vellaya Nadar, in respect of property situate at S.No.102/99 bearing Door No.1, Second Street, Bharath Nagar, Ernavoor Post, Chennai – 600 057, of an extent of 40 x 30 sq.feet, within a time frame that may be stipulated by this Court.

(Prayer amended Vide Court order dt 16.07.2019 by PDAJ in WMP/15912/2019)

For Petitioner	: Mr.K.S.Govinda Prasad
For R1	: Ms.K.Indumathi Venkatesh
For R2	: Mr.Y.Bhuvanesh Kumar

ORDER

The petitioner is an occupant of 420 Sq.mt., of land, out of which, 84 sq.mt., had been taken out and handed over to the CMDA/second respondent.

2.Heard all the learned counsel appearing for the respective parties.

3.In the course of the hearing, it came to light that the petitioner is neither the owner of the plot, which he is in occupation of, nor is he an allottee of the erstwhile Tamil Nadu Slum Clearance Board. In other words, the petitioner is in occupation of a public property and has also put up a 650 sq.mt., building in it.



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4. In the meantime, the petitioner was served with a notice by the Slum Clearance Board/first respondent on 27.12.2017, through which he was informed that he is in occupation of 84 Sq.mt., of land, out of 203 sq.ft., meter allotted for Noon Meal Scheme and his request for assigning the portion he is in occupation has also been declined.

5. The learned counsel for the Tamil Nadu Slum Clearance Board informs the Court that the petitioner has partly encroached into the property allotted for the Noon Meal Scheme and partly into the road margin.

6. The learned counsel for the CMDA/second respondent made a statement on instructions that the portion which the petitioner now occupies has to be surrendered to the Local Body in terms of the layout approved by the CMDA. The Slum Clearance Board is required to handover possession of the plot now occupied by the petitioner to the Local Body.

7. At the end of the day, to whom the property should go as between the Noon Meal Scheme and the Local Body alone is in question, which implies, the



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petitioner as an occupant of the property since 1977 cannot claim absolute right to be in possession.

8.Inasmuch the petitioner is not the owner of the property, he can only approach the Authorities concerned for assignment of the said land, if the petitioner is so desirous, he is free to approach the Tamil Nadu Urban Habitat Development Board for assigning him some land.

9.So far as removing the petitioner from the property is concerned, the Authorities shall strictly conform to the procedure established by law for removing him.

10.The Writ Petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

07.09.2023

Tsg

Index : Yes / No

Neutral citation : yes/no



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To

WEB COPY

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N.SESHASAYEE, J.



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