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WP Nos.37102 of 2006 and
21264 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-03-2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP Nos.37102 of 2006 and 21264 of 2009

And

MP Nos.1 and 2 of 2006 and 1 of 2009 and WPMP No.16804 of 2022

Foundation for Innovative Casework on
Education Economy and Environment (FICAS)
Represented by its President/Managing Trustee
J.S.N.Nimmu Vasanth,
No.1, N Block, Adyar Apartments,
Kotturpurm,
Chennai-600 085. .. Petitioner in WP 37102/2006

FICAS (Foundation for Innovative Casework
on Education Economy and Environment
Represented by its Founder President
J.S.N.Nimmu Vasanth B.E. (Hons.),
No.1, N Block, Adyar Apartments,
Kottur Gardens,
Kotturpurm,
Chennai-600 085. .. Petitioner in WP 21264/2009

vs.



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- 1.The Executive Engineer,
Tamil Nadu Public Works Department (PWD),
Kosasthalaiyar Basin Division – (WRO),
Thiruvallur,
Tamil Nadu.
- 2.The Assistant Engineer,
Tamil Nadu Public Works Department (PWD),
Kosasthalaiyar Basin Division – (WRO),
Adyar Section, (Mount Section),
Alandur, Guindy,
Chennai.
- 3.State of Tamil Nadu
Represented by Secretary,
Tamil Nadu Public Works Department (PWD),
Secretariat, Fort St. George,
Chennai.
- 4.Managing Director,
Tamil Nadu Slum Clearance Board (TNSCB),
5, Kamarajar Salai,
Chepauk,
Chennai-600 005.
- 5.District Elementary Education Officer (DEO),
Department of Nursery and Primary Education,
DPI Campus, College Road,
Chennai-600 006.

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6. Inspector of Police,
J-4 Police Station,
Kotturpuram,
Chennai-600 085.

7. Sanjeevi

8. Commissioner of Police,
Office of the Commissioner of Police,
Egmore,
Chennai-8.

.. Respondents in WP 37102/2006

1. Chairman and Managing Director,
Tamil Nadu Slum Clearance Board,
5, Kamarajar Salai,
Chepauk,
Chennai-600 005.

2. State of Tamil Nadu,
Represented by Secretary,
Urban and Housing Development,
Government of Tamil Nadu,
Fort St. George,
Secretariat,
Chennai-600 001.

3. State of Tamil Nadu,
Represented by Secretary,
Tamil Nadu School Education Department,
Secretariat,
Fort St. George,
Chennai-600 001.

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4.Estate Officer,
Division II,
Tamil Nadu Slum Clearance Board,
83rd Street, Sivalingapuram,
K.K.Nagar,
Chennai-600 078.

.. Respondents in WP 21264/2009

WP No.37102 of 2006 is filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents to pay a compensation of Rs.19,45,648/- with interest to the petitioner to rebuild the school structure of Vidya Nivas School in vacant land allotted by the Tamil Nadu Slum Clearance Board, opposite Kotturpuram LGGS Block 2 Tenements, Part 1, Block 14, Kotturpuram, Chennai and compensate to People's Architecture Commomweal (Pvt) Ltd., or to rebuild the original school structure of Vidya Nivas School in vacant land opposite Kotturpuram LGGS Block 2 Tenements, Part 1, Block 14, Kotturpuram, Chennai and compensate with interest at Rs.3,45,648/- for the cost of loss of material to the People's Architecture Commomweal (Pvt) Ltd.

WP No.21264 of 2009 is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, calling for the records of the fourth respondent in his proceeding Notice Number 1339/07/A dated

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03.09.2009 and quash the same in so far as the petitioner is concerned.

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For Petitioner in both WPs : Ms.J.S.N.Nimmu Vasanth
[Party-in-Person]

For Respondents-1 to 3, 5
6 and 8 in WP 37102/2006 / : Mr.S.Ravichandran,
For Respondents-2 and 3 Additional Government
in WP 21264/2009 Pleader.

For Respondent-4 in
WP 37102/2006 / : Mr.M.Babu Muthu Meeran,
For Respondents-1 and 4 Standing Counsel for
in WP 21264/2009 Tamil Nadu Urban Habitant
Tenement Board [TNUHTB]

For Respondent-7 in
WP 37102/2006 : No Appearance

COMMON ORDER

WP No.21264 of 2009 has been instituted questioning the validity of the order dated 03.09.2009 issued by the Estate Officer/fourth respondent. The order impugned reveals that it was issued under Rule 4 of the Tamil Nadu Slum Areas (Improvement and Clearance) Rules, 1971.



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2. WP No.37102 of 2006 is filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents to pay a compensation of Rs.19,45,648/- with interest to the petitioner to rebuild the school structure of Vidya Nivas School in vacant land allotted by the Tamil Nadu Slum Clearance Board, opposite Kotturpuram LGGS Block 2 Tenements, Part 1, Block 14, Kotturpuram, Chennai and compensate to People's Architecture Commomweal (Pvt) Ltd., or to rebuild the original school structure of Vidya Nivas School in vacant land opposite Kotturpuram LGGS Block 2 Tenements, Part 1, Block 14, Kotturpuram, Chennai and compensate with interest at Rs.3,45,648/- for the cost of loss of material to the People's Architecture Commomweal (Pvt) Ltd.

3. The order impugned reveals that show cause notice was issued to the writ petitioner on 18.08.2009, seeking explanation from the writ petitioner as to why the petitioner shall not be evicted from the premises, which is in their occupation and belongs to the Tamil Nadu Slum

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Clearance Board now renamed as 'Tamil Nadu Urban Habitat Tenement Board'.
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4. The writ petitioner is FICAS (Foundation for Innovative Casework on Education Economy and Environment), which is an Association registered under the Registration Act in the year 1995 vide Registration No.476 of 1995.

5. The Tamil Nadu Slum Clearance Board allotted piece of lands measuring 960 sq. feet (WP No.21264 of 2009) and 5651 sq. ft. (WP 37102 of 2006) respectively in favour of the petitioner for conducting their activities for the welfare of the people residing in that locality. The lands were allotted at the rate of Re.1 per sq.ft., per month with the annual lease vide letter dated 22.11.1995. The lands were allotted to run school for the underprivileged children of Kotturpuram Slum Tenements Area.



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6. The petitioner-Foundation was not allowed to have permanent construction and there were 200 children initially studying in the petitioner-Foundation. While-so, during Covid-19 pandemic period, the petitioner-Foundation was unable to run the school successfully, since there was a drop in attending the school by the children of that locality. The petitioner-Foundation could not pay the rent and further the lease period was also expired in the year 2015. Admittedly, the lease was not renewed or extended.

7. The Foundation President Smt.J.S.N.Nimmu Vasanth appearing on behalf of the petitioner-Foundation articulated the case of the petitioner by stating that the Foundation was registered to cater to the needs of the underprivileged children residing in that locality and therefore, the petitioner-Foundation may be permitted to continue their activities in the plots allotted to them by the Slum Clearance Board.



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8. The learned Founder President contended that she will pay the rent in full within a reasonable period to the Slum Clearance Board and already she had deposited a sum of Rs.50,000/- with the Slum Clearance Board and therefore, she may be allowed to continue the activities of the Foundation and as of now evening classes are conducted from 5.00 P.M., to 8.00 P.M., everyday. The learned Founder President has stated that anti-social activities are increasing in that locality and the nearby Slum Clearance Board buildings were already demolished and many families were shifted to Kannagi Nagar and other areas, wherein new tenements were constructed by the Tamil Nadu Urban Habitat Development Board for the welfare of the homeless people.

9. The learned Founder President made a submission that there is no reason to issue the impugned order, since the petitioner-Foundation was ready and willing to clear the arrears of rent and already paid a part rent of Rs.50,000/- and the balance arrears of rent will be settled as expeditiously as possible. She has insisted that the Slum Clearance Board shall not initiate

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any coercive action and allow the petitioner-Foundation to continue their welfare activities for the benefit of the underprivileged children.

10. The learned Standing Counsel appearing on behalf of the Tamil Nadu Slum Clearance Board assisted by Mr.M.Bhashkar Upadhyay, Estate Officer-VII, Tamil Nadu Urban Habitat Development Board, Teynampet, Chennai-18, who appeared in person along with the files and submitted a Report by stating that the petitioner-Foundation is not conducting any activities in the said premises allotted in their favour in the year 1995. The rental arrears of Rs.2,64,241/- is to be settled.

11. The Founder President of the petitioner-Foundation given an undertaking to the Registrar (Judicial), High Court, Madras in her letter dated 28.02.2023 stating that she will settle full and final payment for a sum of Rs.2,39,924/- by July 2023.



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12. The Estate Officer of the Slum Clearance Board submitted a Report stating that the temporary shed constructed in the subject plots have been locked at all times and on enquiry through local residents, the Authorities Competent found that the temporary shed is in bad condition and locked at all times and no activities are going on for long years..

13. It is further stated in the Report that anti-social activities are going on and many crimes are also happening in that locality, since it is the tail-end area of that locality. The photographs enclosed by the Estate Officer would reveal that it is the shed, which is in locked condition.

14. It is not in dispute between the parties that the lease in favour of the petitioner was granted in the year 1995, which expired on 01.05.2015. Further, it is not in dispute that the lease was neither renewed nor extended by the Slum Clearance Board and therefore, the petitioner-Foundation has no authority to seek further continuance of their activities in the subject premises.

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15. In the absence of any valid lease or permission or license, no person is entitled to continue to be in possession of the public premises. The plots belong to the Slum Clearance Board. The Estate Officer, who conducted inspection, submitted the Report by stating that the temporary sheds are in locked condition and many anti-social activities are going on in and around that area on account of the fact that the plots are not in usage and no school is being run as stated by the petitioner-Foundation for long years.

16. In view of the fact that the lease period expired in the year 2015 itself, which was not renewed. Thus the undertaken given by the petitioner-Foundation before the Registrar (Judicial), High Court, Madras on 28.02.2023 to clear the arrears of rent is of no relevance and the Authorities Competent are empowered to recover the arrears by following the procedures as contemplated under the provisions of the Act and the Rules in force.

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17. It is further not in dispute that the Competent Authorities of the Public Works Department (PWD) demolished the Slum Clearance Board buildings in that locality on account of 2015 Chennai Floods. However, the demolition of the buildings or shifting the occupants to some other alternate tenements, would have no implication in respect of occupation of the petitioner-Foundation in the subject plots, belonged to the Slum Clearance Board.

18. It is further not in dispute that the petitioner-Foundation is a defaulter in payment of rent. As per the undertaking letter dated 28.02.2023 given by the petitioner-Foundation, the Founder President has calculated the arrears of rent as Rs.2,39,924/-. But as per the Slum Clearance Board, the arrears of rent to be paid by the petitioner-Foundation is Rs.2,64,241/-.

19. Considering the fact that the lease granted in favour of the petitioner was expired in the year 2015 itself and the petitioner is not

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conducting any activities in that locality and further the Inspection Report reveals that the temporary sheds are locked for long time and anti-social activities are going on in and around that locality, this Court is not inclined to consider the claim of the petitioner.

20. This Court is of the opinion that the petitioner-Foundation is not entitled for the relief as such sought for in these writ petitions. That apart, the allotment can never be claimed as a matter of right by any individual. If at all the petitioner is interested in running the Foundation, she is at liberty to move it to any place, which would be suitable for her and she cannot demand that the Slum Clearance Board should allot the said lands in favour of the petitioner and such a contention of the petitioner is untenable and the petitioner has no right to claim any such allotments from the Slum Clearance Board.

21. That being the factum, the petitioner is bound to pay the arrears of rent, which is due to the Slum Clearance Board. If the Competent

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Authorities of the Urban Habitat Development Board has taken a policy decision to grant permission to any such welfare activities or otherwise in any area, the petitioner in such circumstances shall submit an application along with all other eligible persons and except the right to apply, the petitioner has no right to claim any continuance of lease or allotment or otherwise. Since the Authorities Competent have not renewed the lease after 2015 and already 8 years have elapsed and mere undertaking to pay the arrears of rent would not confer any right on the petitioner to seek renewal of lease or to continue in the subject premises.

22. Thus this Court do not find any infirmity in respect of the order impugned passed by the Estate Officer, which is in consonance with the provisions of the Act and the Rules in force and the contentions raised by the petitioner that she will clear the arrears of rent would not confer any right to claim renewal of lease, since the petitioner is bound to pay the arrears of rent as per the lease conditions.



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23. In this view of the matter, the writ petitions are devoid of merit and since the plots are in vacant condition and nobody is in occupation, the Estate Officer is directed to take possession of the subject plots forthwith immediately and initiate necessary action if any illegal or anti-social activities are occurring in that area.

24. Accordingly, both the writ petitions are dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

07-03-2023

Speaking Order/Non-Speaking Order.

Neutral Citation : Yes/No.

Internet : Yes/No.

Index: Yes/No.

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To

1.The Executive Engineer,
Tamil Nadu Public Works Department (PWD),
Kosasthalaiyar Basin Division – (WRO),
Thiruvallur,

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- 2.The Assistant Engineer,
Tamil Nadu Public Works Department (PWD),
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- 3.The Secretary,
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Chennai-600 005.

9.The Secretary,
State of Tamil Nadu,
Urban and Housing Development,
Government of Tamil Nadu,
Fort St. George,
Secretariat,
Chennai-600 001.

10.The Secretary,
State of Tamil Nadu,
Tamil Nadu School Education Department,
Secretariat,
Fort St. George,
Chennai-600 001.

11.The Estate Officer,
Division II,
Tamil Nadu Slum Clearance Board,
83rd Street, Sivalingapuram,
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