



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.02.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.Nos. 2810, 2814, 2815 & 3217 of 2023

And

W.M.P.Nos. 2934, 2814, 2939 & 3275 of 2023

1. Neela ... Petitioner in W.P.No. 2810 of 2023
2. Kumari ... Petitioner in W.P.No. 2814 of 2023
3. Nirmala Devi ... Petitioner in W.P.No. 2815 of 2023
4. Chellama ... Petitioner in W.P.No. 3217 of 2023

..Vs..

1. Managing Director
Tamilnadu Urban Habitat Development Board
No.5, Kamarajar Salai, Chempauk,
Chennai – 600 005.
2. Estate Officer -3
Tamilnadu Urban Habitat Development Board
T.P.Chatiram
Chennai – 600 010.
3. Executive Engineer
Division -3
Tamilnadu Urban Habitat Development Board
T.P.Chatiram



Chennai – 600010

... Respondents in all W.Ps.

WEB COPY

PRAYER IN W.P.No. 2810 of 2023: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certioarified Mandamus by calling for the records pertaining to the demolition notice issued against the petitioner in the name of the 2nd and 3rd respondents and quash the same and further direct the respondents not to demolish the petitioner's shop No.40, at New Avadi Road, Chennai -600 038, in the Gandhinagar Planning Division (Gandhinagar Thitta Pugudhi), which has been regularised by the order dated 12.08.2003 made in the proceedings vide Na.Ka.No.14050/2003/B3 of the Chairman, Tamilnadu Slumb Clearance Board, in the manner other than due process of law.

PRAYER IN W.P.No. 2814 of 2023: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certioarified Mandamus by calling for the records pertaining to the demolition notice issued against the petitioner in the name of the 2nd and 3rd respondents and quash the same and further direct the respondents not to demolish the petitioner's shop No.55, which has been constructed by the petitioner as an allottee as per the proceedings dated 26.09.2003 vide Na.Ka.No.B3/15946/2003 of the Chairman, Tamilnadu Slumb Clearance Board, in the manner other than due process of law.

PRAYER IN W.P.No. 2815 of 2023: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certioarified



WEB COPY

Mandamus by calling for the records pertaining to the demolition notice issued against the petitioner in the name of the 2nd and 3rd respondents and quash the same and further direct the respondents not to demolish the petitioner's shop No.41, at New Avadi Road, Chennai -600 038, in the Gandhinagar Planning Division (Gandhinagar Thitta Pugudhi), which has been regularised by the order dated 27.12.2005 made in the proceedings vide VA.Se.Mu.Ka.No. 21254/2005/B3 of the Chairman, Tamilnadu Slumb Clearance Board, in the manner other than due process of law.

PRAYER IN W.P.No. 3217 of 2023: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certioarified Mandamus by calling for the records pertaining to the demolition notice issued against the petitioner in the name of the 2nd and 3rd respondents and quash the same and further direct the respondents not to demolish the petitioner's shop No.44, which has been constructed by the petitioner's deceased husband Elumalai as an allottee as per the proceedings dated 7.09.2002 vide Se.Mu.Ka.No.B3/7599/2002 of the Chairman, Tamilnadu Slumb Clearance Board.

For Petitioners in
all W.Ps. :: Mr. M.Guruprasad

For RR 1 to 3 in
all W.Ps. :: Mr. S.Karthikeyan



WEB COPY

COMMON ORDER

The Writ Petitions have been filed in the nature of Writ of Certiofarified Mandamus seeking records relating to the demolition notice issued against the petitioners herein by the second and third respondents, namely, Estate Officer -3, Tamilnadu Urban Habitat Development Board, T.P.Chatiram, Chennai and Executive Engineer, Division-3, Tamilnadu Urban Habitat Development Board, T.P.Chatiram, Chennai and to quash the same and to direct the respondents not to demolish the shops of the petitioners at New Avadi Road, Chennai – 38 in Gandhinagar Planning Division (Gandhinagar Thitta Pagudhi) which shops had been regularised by orders dated 12.08.2003, 26.09.2003, 27.12.2005 & 27.09.2002 respectively.

2. The writ petitioners are each running a Bunk Shop measuring about 140 sq.ft., in W.P.No. 2810 of 2023, 56 sq.ft., in W.P.No. 2814 of 2023, 154 sq.ft., in W.P.No. 2815 of 2023 and 35 sq.ft., in W.P.No. 3217 of 2023. The four petitioners had been allotted the shops by Board proceedings of the respondents in the years, 2002, 2003 and 2005.



WEB COPY

3. It is also stated that the petitioner in W.P.No. 2810 of 2023 and the petitioner in W.P.No.2815 of 2023 were not the original allottee but had purchased the Bunk Shops. It is fairly stated by the learned Standing Counsel for the respondents that the respondent Board had approved of such purchase and had regularise the holding. It was also found that further construction had been put up and penalty had also been levied. It had also been stated that rental amount had also been determined but it is however stated that from 2017 onwards, the petitioners had not paid the rental dues.

4. In the meanwhile, the respondents to receive a communication from the Chennai Corporation on 08.12.2016 whereby it had been very specifically stated that the four petitioners, and as a matter of fact totally 17 Bunk Shops will have to be demolished by the respondents since storm water drains have to be established for the new tenements which had been put up by the Tamilnadu Urban Habitat Development Board.

5. It is stated that the Bunk Shops are an obstruction for putting up the said Storm Water drains. It is contended by the learned Standing Counsel for the respondents that all the other Bunk Shops owners/allottees



have vacated and have handed over possession. It is also stated that those who are in possession of the tenements have also handed over possession and the building has also been demolished. These petitioners however have not yet vacated.

6. The learned counsel for the petitioners however justified retention of possession by stating that proper notice had not been issued and further stated that rents tendered that had not been accepted by the respondents herein. It is contended that for the construction of storm water drains or for construction of new tenement building, the Bunk Shops need not be vacated.

7. I have carefully considered the arguments advanced.

8. It is a fact that the petitioners are running the Bunk Shops doing business. The allotment of the Bunk shops was to assist those who had been granted residences in the tenements to eke out livelihood. But two of the residents had sold the bunk shops. Two of the petitioners are thus purchasers of the Bunk Shops. They are not residents in the tenements. The



WEB COPY

entire tenement itself had been demolished. The tenements in the new building have to be allotted to various individuals, who require houses for themselves. This is the object of the respondents/ Tamilnadu Urban Habitat Development Board.

9. The petitioner in W.P.No. 2810 of 2023, Neela, is a purchaser and had unauthorisedly also put up additional first floor construction. This cannot be permitted to be continued.

10. It must be stated that laying of either sewerage water line or drainage water line or pipe line are for general cause. If the four petitioners obstruct putting up of such pipe lines, then the balances are weighted, the larger public interest will have be considered rather than the interest of the four petitioners.

11. The learned counsel for the respondents stated that for each household, a sum of Rs.24,000/- was given as an allowance at the time of demolition of their particular house to help them till the new building is built. In view of the fact that from 2017 onwards, the rent has not been paid



and more over the Bunk shops are an obstruction to put sewerage/drainage pipe lines and for the construction of further tenements under the Tamilnadu Urban Habitat Development Board scheme, I hold that the petitioners will necessarily have to vacate and hand over possession.

12. Three weeks time is granted to vacate and hand over possession. If possession is still not handed over, the respondents may take an appropriate decision to vacate the petitoirer by means which could be justified by them. In the meanwhile, within a period of three weeks, the respondents may also arrive at a just compensation to be paid to the petitioners herein and effect such payment if the petitioners are eligible to be period such compensation. No further orders are required.

13. The Writ Petitions stands dismissed. Consequently, connected Civil Miscellaneous Petitions are closed. No costs.

22.02.2023

vsg
Index : Yes/No
Internet : Yes/No
Speaking / Non Speaking Order



WEB COPY To

1. Managing Director
Tamilnadu Urban Habitat Development Board
No.5, Kamarajar Salai, Chepauk,
Chennai – 600 005.
2. Estate Officer -3
Tamilnadu Urban Habitat Development Board
T.P.Chatiram
Chennai – 600 010.
3. Executive Engineer
Division -3
Tamilnadu Urban Habitat Development Board
T.P.Chatiram
Chennai – 600010



WEB COPY



C.V.KARTHIKEYAN, J.,

vsg

W.P.Nos. 2810, 2814, 2815 & 3217 of 2023
And
W.M.P.Nos. 2934, 2814, 2939 & 3275 of 2023

22.02.2023