



W.P.No.4365 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.4365 of 2021

and

W.M.P.Nos. 4963 of 2021 & 5331 of 2023

1.K.Panneer Selvam (Deceased)
2.P.Sundari
3.P.Sathya Raj
4.R.Kanimozhi
5.B.Kalaivani

.. Petitioners

*(P2 to P5 are substituted
as LRs of P1 as per order
dated 06.10.2023
made in WMP.7160 of 2022
in WP.No.4365 of 2021 by this Court)*

VS

1.The Chairman and Managing Director,
Tamilnadu Slum Clearance Board,
Kamarajar Salai, Chennai 600 005.

2.The Assistant Engineer,
Sub-Division-IV, Division-3,
Tamilnadu Slum Clearance Board,
Vysarpadi, Chennai-600 039.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari calling for the records relating to the order of eviction notice dated 12.01.2021 which was issued by the 2nd respondent to the petitioner and quash the same.

For Petitioners : Mr.E.Lakshmipathy

For Respondents : Mr.B.Balaji
for Mr.S.Karthikeyan



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ORDER

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The petitioner's father (deceased) had been allotted a shop to an extent of 100 sq ft being shop no.1 out of 5 shops in Chandrayogi Samathi Scheme by the Tamil Nadu Slum Clearance Board, Otteri, Chennai - 600 012 (Scheme). That Scheme had been formulated in 1974. The allotment to the petitioners' father was in the year 1977 and post the original allottee's demise the petitioners have been occupying the premises and carrying out business therefrom. Admittedly, the allotment is on a lease basis which is renewed annually.

2. The petitioners have been in occupation of the shop till 2020 and though the petitioners would submit that there are no defaults in rent, the respondents would state that there have been defaults between the period November, 2019 and March, 2020 when the lease was terminated.

3. According to respondents, the entire area is under re-development and is undergoing a face lift. Copies of the erstwhile and present Schemes have been circulated, which reveal that the present Scheme does not have any provision for shops. In the area where the petitioners' shop is located, there is a provision for a transformer yard. The respondents have been unable to complete the setting up of transformer yard by virtue of the stay that the



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petitioners has obtained from this Court in this writ petition.

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4. On 01.04.2020, the respondents have written to the petitioners bringing to their notice that the annual lease would not be extended beyond 31.03.2021. The impugned order is dated 12.01.2021 and states that all the shops and units in the original scheme were found to be dilapidated and the entire project is hence proposed to be razed to the ground.

5. Since the shops were temporary in nature, there was no extension of the lease period and the petitioners has been directed to vacate the shop on or before 20.01.2021. This communication, in any event, is arbitrary insofar as the petitioners could not have been asked to remove himself from the premises in light of the respondents' letter dated 01.04.2020 extending the lease for the period 01.04.2020 to 31.03.2021.

6. Though the respondents are justified in seeking eviction beyond 31.03.2021, the impugned order which bears upon the petitioners to vacate the premises two months prior to the end of the lease period, is certainly bad in law. To this extent, the respondents will be put to terms.

7. Be that as it may, the eviction which is a consequence of the re-development, is a matter of policy. The project had commenced in 1974 and with the elapse of 50 years, it is necessary



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for the respondents to take stock of the construction and do the needful in that regard. The non-inclusion of the shops in the revised plan is a matter of policy and this Court will not intervene on either of the aforesaid counts. However, he is at liberty to make a representation before the respondents seeking accommodation of his premises in any other existing/proposed project which, if submitted, will be considered by the respondents, in accordance with law.

8. As far as the impugned order is concerned, barring the infirmity that has been noted in the preceding paragraphs relating to eviction, the same is confirmed and this writ petition is dismissed. Costs of Rs.25,000/- will be paid to the petitioners within a period of two (2) weeks from today qua the violation noted at paragraph 6. The cost imposed will stand reduced to the extent of rental arrears, if any. Connected miscellaneous petitions are closed.

08.11.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

Note to Registry : Issue on 10.11.2023



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To

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Sub-Division-IV, Division-3,
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DR. ANITA SUMANTH,J.

ssm

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