



W.P.Nos.5922, 5923, 5924, 5925 & 5926 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

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Appasamy Subramani	... Petitioner in WP.5922/2010
Chandrammal	... Petitioner in WP.5923/2010
Ashok Kumar	... Petitioner in WP.5924/2010
Shiva Kumar	... Petitioner in WP.5925/2010
N.Jayakumar	... Petitioner in WP.5926/2010

Vs.

1. The Government of India,
Rep. by its Secretary,
Ministry of Defence,
South Block, New Delhi.
2. The Director General of Defence Estates,
Ministry of Defence,
Delhi Cantonment,
New Delhi.
3. The Defence Estate Officer,
Madras Circle,
No.306, Anna Salai,
Teynampet, Chennai 18.



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4. The Chairman,
TamilNadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai-600 005.

5. M/S.Sri Kusuma Haranath,
Ex-Servicemen Association,
Rep. by its President Mr R.S Baskaran,
Door No.26/1/1016, 26th Kennedy Street,
Jambulingam Main Road,
G.K.M.Colony, Chennai-82.

...Respondents in all WPs.

(R5 impleaded vide order dated 13.04.2023 made in:
WMP.3302/2022 in WP.5922/2010;
WMP.3305/2020 in WP.5923/2010;
WMP.3307/2020 in WP.5924/2010;
WMP.3308/2020 in WP.5925/2010;
WMP.3309/2020 in WP.5926/2010, by SMSJ)

Common Prayer :- Writ petitions are filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling upon the production of the records relating to the order dt 25.9.2009 made in No.732/5/L/DE/SC/0/03/1121/US (S)/L/09 passed by the 1st respondent herein and communicated by the 3rd respondent in No.N/478/WP21898/93/83/MC on 12.10.2009 and quash the same and direct the respondents herein to allot a plot of land to the petitioners herein in Ayanavaram Rifile Range Area, in R.S. No. 379, 380 and 381 of Peravallur village, R.S. No. 153 of Ayanavaram Village and S.No.14 of Konnur Village, Chennai District.



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For Petitioners
in all WPs. : Mr.S.Shanmuga Sundaram

For Respondents in all WPs. :
(for R1 to R3) : Mr.R.Rajesh Vivekananthan,
DY Solicitor General of India
(for R4) : Mrs.G.Thilagavathi, Senior Counsel
for Mr.B.Balaji
(for R5) : Mrs.RitaChandran Sekar for
Mrs.R.Meenakshi

COMMON ORDER

The writ petitions on hand have been instituted questioning the validity of the orders of the 1st respondent dated 25.09.2009 and consequential communication of the 3rd respondent dated 12.10.2009 and for a direction to the respondents to allot a plot of land to the petitioners in Ayanavaram Rifile Range Area, in R.S. No. 379, 380 and 381 of Peravallur village, R.S. No. 153 of Ayanavaram Village and S.No.14 of Konnur Village, Chennai District.

2.The petitioners state that they are Ex-Servicemen and bona fide members of the Sri Kusuma Haranath Thunai Ex-Servicemen Association. The Ex-Servicemen Association is a Society registered under the Societies Registration Act. The petitioners further state that they were in occupation



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of housing site plots in General Kumaramangalam Colony (GKM Colony) at Chennai. The plots were allotted by the Tamil Nadu Slum Clearance Board in the year 1989 and the petitioners had put up temporary structures in the land under their occupation.

3.It is not in dispute that the land belonged to the Ministry of Defence and the Defence Estate Authorities initiated action to evict the encroachers in the defence land. The encroachers were mainly defence people including Ex-Servicemen. Representations were made by the Sri Kusuma Haranath Thunai Ex-Servicemen Association to allot the said lands to the Ex-Servicemen, who were in occupation of the said land belonging to the Ministry of Defence. Finally, the Ministry of Defence offered the entire lands measuring 139.07 acres for sale to the Ex-Servicemen Association, at the rate of Rs.20,000/- per acre, by sale order dated 31.03.1977. Accordingly, GKM colony has been notified as a slum along with the other slums by the Government of Tamil Nadu in G.O.Ms.No.225, Labour and Housing Department, dated 26.02.1972. The local authorities namely M.M.D.A. and the Tamil Nadu Slum Clearance Board approached the Ministry of Defence for concurrence to undertake development works under the World Bank Assistance scheme in the



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Colony. The Ministry of Defence, while according concurrence for the infrastructure development works, modified the original sale order dated 31.03.1977. In order to facilitate the recovery of the sale amount of Rs.27.80 lakhs for the said 139.07 acres of land from the Ex-Servicemen encroachers, the Ministry of Defence authorised M.M.D.A. to collect the land cost on their behalf and credit the same to the account of the Ministry of Defence. The Tamil Nadu Slum Clearance Board was authorised to transfer ownership rights by entering into lease cum sale agreement on behalf of the Defence Ministry.

4.The petitioners were dislocated from their respective occupied portion of the house sites, since it was a low line pond area. The petitioners incurred expenditure to fill the low line pond area. The petitioners state that after dislocating them from the low line pond area, which is a water body, they were not allotted any alternate house sites despite the fact that the names of all the petitioners were included in the list of eligible Ex-Servicemen. The list of eligible Ex-Servicemen were sent by the association after verifying the particulars of the Ex-Servicemen. Thus, the respondent ought to have allowed the petitioners to occupy the alternate house site in the same locality. The efforts taken by the petitioners went in



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vain and thus, they have approached this Court. The petitioners state that they have paid the amount to the association. Therefore, they are entitled for the relief.

5.The learned counsel for the petitioners mainly contended that all the Ex-Servicemen defence personnel who were the encroachers of defence land were given the benefit of house site in that locality. The names of the petitioners were included in the list of eligible members. Since the petitioners were in occupation of the low line pond area, they were dislocated and therefore, they are entitled for house site in that area.

6.The learned Senior Counsel appearing on behalf of the 4th respondent objected the contentions raised on behalf of the petitioners by stating that all the persons in that locality were encroachers. Pursuant to the orders passed by the Ministry of Defence, the Slum Clearance Board was appointed as an nodal agency and accordingly, the Slum Clearance Board verified the documents and allotted house sites to all the eligible persons numbering more than 1600. The respondents have verified the facts and the applications submitted by the petitioners and found that there are certain discrepancies and some petitioners are not genuine Ex-



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Servicemen and that apart, they have not paid the sale consideration. Even as per the documents filed by the petitioners, they have deposited the sale consideration in Ex-Servicemen Association as per the receipt furnished by them on 23.02.1988. However, the said amount has been deposited by the Association after allotment of all the house sites to the eligible persons. In spite of the fact that the petitioners have not paid the sale consideration during the relevant point of time nor established their eligibility, the respondents have scrutinised the applications submitted by the petitioners pursuant to the orders passed by this Court and found that the petitioners are not eligible for allotment. Thus, the writ petition is liable to be rejected.

7.The petitioners have stated that they have earlier filed writ petitions in W.P.No.528 of 1989 and batch. This Court passed final orders on 11.04.2001 permitting the petitioners, who all are the members of the Association, to submit proper representation to the respondents therein and directed the respondents to consider the applications on individual eligibility and thereafter pass appropriate orders. The said exercise has not been done properly and the impugned order has been passed contrary to the spirit of the order passed by this Court. Therefore, the writ petition is to be considered.



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8. In response, the learned Senior Counsel appearing on behalf of the 4th respondent made a submission that the petitioners are not Ex-Servicemen therefore, the writ petitions are not maintainable. The transfer of defence land was made by the Government of India, Ministry of Defence in letter dated 31.3.1977 and the Slum Clearance Board also issued the consequential circular on 18.01.1977 in respect of General Kumaramangalamm Colony, Chennai. Thereafter, the Government of Tamil Nadu issued G.O.Ms. No. 991, Housing and Urban Development Department dated 02.11.1982 to execute the lease cum sale agreement with the occupants of G.K.M on behalf of the Defence Ministry, Government of India, subject to terms and conditions. Thus, the lease cum sale agreement was executed on terms and conditions made by the Tamil Nadu Slum Clearance Board pursuant to the government orders issued in the year 1982. The list of eligible occupants were finalised by the Slum Clearance Board pursuant to the government order in proceeding dated 12.03.1983. The Annexure to the said letter furnished by the respondents reveals that lease cum sale agreement was executed by the Tamil Nadu Slum Clearance Board on behalf of the Ministry of Defence in respect of more than 1600 persons. With reference to the orders passed by the High



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Court on 11.04.2001, the respondents have carefully scrutinised the applications and the eligibility of the petitioners herein and found that there is no genuineness in their claim and accordingly, the claim of the writ petitioners were rejected.

9.This Court is of the considered opinion that admittedly the petitioners and other occupants were the encroachers of the defence land. The request of the Ex-servicemen association was considered by the defence ministry and the Tamil Nadu Slum Clearance Board was appointed as a nodel agency to allot lands in favour of the encroachers. The Tamil Nadu Slum Clearance board took over the issue and finalised the eligible Ex-Servicemen who all are the encroachers of the defence land. In respect of the eligible Ex-Servicemen, the Tamil Nadu Slum Clearance Board entered into lease cum sale agreement by collecting the consideration as fixed by the defence ministry and deposited the said amount in the accounts of the defence ministry. The process commenced in the year 1977 and the list was finalised in the year 1983. Even as per the petitioners' document, they have deposited the land cost to the Ex-Servicemen Association only on 23.03.1988 after finalisation of the list of eligible encroachers in the year 1983. Several years lapsed.



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10. Admittedly, the petitioners are encroachers. Therefore, they have no absolute right to claim allotment from the Slum Clearance Board. Allotment of land by the Slum Clearance Board should be made strictly in accordance with the terms and conditions of the scheme framed for such allotment. In the present case, the Government imposed certain terms and conditions in G.O.Ms No. 991, Housing and Urban Development, dated 2.11.1982. Based on the Government order, list was finalised in the year 1983 and the petitioners paid the amount to the Ex-Servicemen Association in the year 1988 and thereafter, approached this Court and based on the directions issued by this Court, individual applications of the petitioners were considered by the respondents and found that the petitioners are not eligible for any such allotment.

11. That being the factum, at this length of time, the petitioners cannot seek any allotment of land from the respondents. The petitioners have not established any right for such allotment. Thus, the writ petitions are devoid of merits.



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12. With these observations, the writ petitions stand **dismissed**.

However, there shall be no order as to costs.

(sha/jeni)

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Index : Yes

Speaking Order

Neutral Citation : Yes

To

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S.M.SUBRAMANIAM. J.,

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