



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.3855 to 3868 of 2011

and

M.P.Nos.1 of 2011 (14 MPs)

W.P.No.3855 of 2011:

A.Devarajan

... Petitioner

Vs.

1.The Chairman and Managing Director
Rep by its Tamil Nadu Slum Clearance Board,
Chepauk, Chennai – 5.

2.The Assistant Engineer,
Division 5,
Tamil Nadu Slum Clearance Board,
Teynampet, Chennai – 18.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent, NA.KA.enn dated 03.02.2011, and quash the same by directing the Respondents to considered the Petitioners representations dated 31.01.2011 allotting the developed plots already in Petitioner occupation



For Petitioners : Mr.M.Balasubramanian
(in all WPs)

For Respondents : Mr.G.Venkatesan
Standing Counsel
[For TNSCB]
(in all WPs)

COMMON ORDER

The Form (A) notice issued under Rule 4 and 5 of the Tamil Nadu Slum Clearance (Control and Management of properties) Rules, 1971 dated 03.02.2011 is under challenge in the present writ petition.

2. The petitioner along with 13 others, who all are the petitioners in the other writ petitions states that they are the residence of Mahakavi Bharathi Nagar, New Perungalathur, the areas were subsequently acquired by the Tamil Nadu Slum Clearance Board. The petitioners state that they are residing at the said address and submitted representations to grant allotment in their favour. However, no such allotment was made in favour of the petitioners and the authorities issued Form (A) notice for the purpose of evicting the writ petitioners. Thus, the petitioners are constrained to the move present writ petitioners.



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3. The learned Standing Counsel appearing on behalf of the Tamil Nadu Slum Clearance Board now renamed as Tamil Nadu Urban Habitat Development Board made a submission that the respondent / Board had developed 205 Plots in the land measuring to an extent of 2.02 Hectare under TNUDP Scheme in Survey No.223/1 pt, which is classified as Eri Poramboke at New Perungalathur Village, Tambaram Taluk. The Board has prepared the layout for the above scheme under “as is where is condition” and the same was approved by the Chennai Metropolitan Development Authority (CMDA).

4. The General Secretary Mahakavi Bharathi Nagar Welfare Association has filed a writ petition before the High Court in W.P.No.40341 of 2005, seeking additional infrastructure facilities like storm water drain and additional height of retaining wall at downstream to prevent maximum entry of flood water with the scheme during the monsoon. The writ petition was allowed directing the respondents to raise the wall. The PWD authorities have requested to evict the encroachments along the retaining wall to commence the bund raising work. Thus, the Board issued the Form (A) notice as per the law to evict the encroachments from the land belonging to the respondents.



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5. While implementing the TNUDP scheme, the petitioners were not enumerated by the Board under “as is where is condition” since the scheme was implemented under TNUDP scheme. The petitioners herein have not paid any initial down payment to get allotment order for their occupation. Thus, they continued as encroachers and therefore, they are not entitled for any relief.

6. If at all the petitioners are eligible to get allotment under the scheme they have to submit an appropriate application before the competent authorities by producing documents along with the necessary fees and charges. However, the petitioners remained only as encroachers and they have not initiated any steps for getting allotment or paid fees or charges.

7. A writ against the notice is not entertainable in a routine manner. A writ against a notice for eviction may be entertained only if the notice was issued by an incompetent authority having no jurisdiction or having allegation of *mala fides*. In the present case, Form (A) notice was issued under Rules 4



and 5 of the Tamil Nadu Slum Clearance Board (Control and Management of Properties) Rules, 1971 by following the procedures and there is no infirmity.

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8. Since the notice was issued in order to protect the interest of the residence and for construction of retaining wall to avoid flooding during rainy seasons, this Court is of an opinion that the petitioners are not entitled for any relief. If all the petitioners wants to secure any allotment they have to file appropriate application before the competent authorities, which is to be considered strictly in accordance with the rules and by following the other procedures as contemplated. However, in view of the fact that the interest of residence of that locality are to be protected in the public interest, the respondents are bound to evict the encroachers from the premises without causing any undue delay and by following the further procedures.



9. With these observations, these Writ Petitions stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes
Speaking order
Neutral Citation : Yes

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