



WP No.32018 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-03-2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

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Mrs.M.Uma Maheswari

..

Petitioner

VS.

1.The Tamil Nadu Slum Clearance Board,
Represented by its Managing Director,
No.5, Kamarajar Salai,
Chepauk,
Chennai-600 005.

2.K.Usha

..

Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the first respondent to execute a Sale Deed in favour of the petitioner.



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For Petitioner : Mr.M.Narayanaswamy

For Respondent-1 : Mr.B.Balaji,
Standing Counsel for TNUHDB
[TNSCB]

For Respondent-2 : Ms.A.V.Bharathi

ORDER

The writ on hand has been instituted to direct the first respondent to execute a Sale Deed in favour of the writ petitioner.

2. The petitioner states that her deceased husband late Mr.K.C.Sridhar was granted license to run an Eating House under the name and style of 'Loyala Fast Foods' at the premises No.37/15, Nelson Manickam Road, Choolaimedu, Chennai-600 094. The husband of the writ petitioner was in possession and enjoyment of the said commercial premises, which



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admittedly belongs to the Tamil Nadu Slum Clearance Board, presently renamed as 'Tamil Nadu Urban Habitat Development Board'.

3. The second respondent Smt.K.Usha is the allottee of the said property and the writ petitioner states that she had purchased the subject property from the second respondent. However, the Slum Clearance Board has not executed any Sale Deed so far in favour of the second respondent allottee and under these circumstances, the learned counsel for the petitioner contended that the petitioner, being the purchaser of the subject property from the second respondent, the first respondent ought to have accepted the Sale Deed in favour of the writ petitioner. That apart, the name of the writ petitioner has been recognised as an allottee by the Slum Clearance Board and therefore, the Sale Deed is to be executed in the name of the writ petitioner. Since the approach of the writ petitioner went in vain, she is constrained to move the present writ petition.



4. The learned Standing Counsel appearing on behalf of the first respondent, raised an objection by stating that the writ petitioner is not an allottee. The petitioner admits that she purchased the subject property from the second respondent, who was the original allottee by the first respondent/Slum Clearance Board. While-so, the sale of subject property by the second respondent to the writ petitioner itself is in violation of the provisions of the Statute and the Rules in force and also in violation of the conditions of allotment.

5. It is brought to the notice of this Court that presently another third person, namely. one Mr.Charles is in occupation of the premises unauthorisedly and running a Restaurant, who is an encroacher and the first respondent/Slum Clearance Board has not initiated action to evict the unauthorised occupant from the said premises.

6. The learned counsel appearing on behalf of the second respondent referring the counter-affidavit filed by the first respondent stated



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that the second respondent is the original allottee and the board by its proceedings Va.Se.Mu.Ka.No.36270/93/E3 dated 20.01.1994 allotted the subject property in favour of the second respondent and the name in the Allotment Register was changed as Tmt.Uma Maheswari (writ petitioner) by Board proceedings dated 03.11.2004. However, there is no evidence that the allotment order in the name of the petitioner is available on records. The petitioner also has not produced any document to show her possession in Plot No.57-A. The original allottee has rented the premises for commercial purposes, which is in violation of the Board's Rules and procedures.

7. Perusal of the facts would reveal that several irregularities and illegalities both by the allottee as well as by the officials of the Slum Clearance Board. The counter itself states that in the Allotment Register, the name of the second respondent was subsequently changed as Tmt.Uma Maheswari, who is the writ petitioner herein and there is no evidence of allotment order in the name of the writ petitioner is available on records. Thus, there is a possibility of tampering of records and in this regard, the



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first respondent-Board is bound to conduct an enquiry and initiate appropriate actions against the officials, who all are responsible and accountable for the maintenance of the Board's records.

8. As per the Report received from the Executive Engineer, Division IV, Tamil Nadu Urban Habitat Development Board, Teynampet, Chennai dated 03.02.2023, it came to light that now the whole Plot No.57-A is in use of one Mr.Charles, who is running fast food hotel in the ground floor and two other floors for residential purposes, which are kept vacant and are in dilapidated condition. The said Mr.Charles is neither an allottee nor permitted by the Board to occupy the subject premises. He is an encroacher and actions are to be initiated for eviction of unauthorised occupant and by invoking the provisions of the Act and the Rules.

9. The petitioner states that she has purchased the subject property for a valuable sale consideration of Rs.28 lakhs from the second respondent. However, the second respondent herself is not an allottee. Mere



allotment would neither confer title nor amounts to transfer of title. The Sale Deed is to be executed for transfer of title and admittedly no such Sale Deed has been executed by the Slum Clearance Board either in the name of the second respondent or in the name of the writ petitioner. That being the factum, the second respondent has no salable right to transfer the property in favour of the writ petitioner.

10. The Tamil Nadu Slum Clearance Board (Control and Management of Properties) Rules, 1971 prescribes procedures to be adopted for eviction. Large scale allegations are prevailing in the matter of allotment of tenements by the Urban Habitat Development Board to the poor homeless persons.

11. It is painful to record that muscle power, political links and authority of executives plays vital role for the continuance of illegalities and irregularities in the matter of allotment of tenements to the common people and large scale corrupt activities are also the major issue, which has been



raised in the public domain. If such illegalities are allowed to continue in the Public Departments, it is not only an unconstitutionality, but also the trust amongst the public will be shaken and thus this Court is of the considered opinion that the Executives are duty bound to exercise their powers vigilantly and effectively in the manner contemplated under the Act and the Rules. If the Executives are allowed to yield to the pressures from any quarters, it will result in failure on administration, which is an unconstitutionality, an infringement of the fundamental rights of the citizen and therefore, this Court is of the considered opinion that such illegalities and irregularities prevailing in the Tamil Nadu Slum Clearance Board are to be dealt with suitably.

12. In the present case, the second respondent was the original allottee in whose name no Sale Deed is executed by the Slum Clearance Board. As per the records, the name of the allottee has been stated as Tmt.Uma Maheswari, who is the writ petitioner herein. The writ petitioner states that she has purchased the property from the second respondent for a



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sale consideration of Rs.28 lakhs. The Authorities state that now one Mr.Charles is in occupation of the subject premises and running a hotel. In the present allotment, this Court is able to find out so much irregularities and illegalities.

13. This being the factum, the first respondent undoubtedly has failed in their duty to implement the noble cause for which the Slum Clearance Board was constituted. The noble cause for the constitution of the Board is to cater the needs of the poor homeless people and if so much illegalities and irregularities are prevailing in the matter of allotment to the poor and downtrodden people in the State, then it is the failure to fulfill the purpose and object of the Act and this Court takes serious note of the situation prevailing in the administration of the Slum Clearance Board by its Authorities.

14. The writ petitioner admittedly is not an allottee. That being the factum, the writ petitioner is not entitled for any relief against the first



respondent/Slum Clearance Board. In the Allotment Register, the name of the second respondent also has been removed from the list of allottees in the Register. That being the case, it is not made clear, what would be the stand of the Slum Clearance Board regarding the allotment originally made in the name of the second respondent.

15. In view of the facts and circumstances, this Court is inclined to pass the following orders:-

(1) The writ petitioner is not entitled for the relief, as such, sought for in the present writ petition.

(2) The first respondent is directed to initiate eviction proceedings against the encroachers or unauthorised occupants in the premises by following the procedures as contemplated under the Act and the Rules, within a period of two months from the date of receipt of a copy of this order.

(3) The first respondent is directed to verify all such illegal and irregular allotments made in the plots or tenements and the encroachments



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of unauthorised occupants in the premises belonged to the Board and initiate all appropriate actions to remove the illegalities and irregularities and uphold the noble object and cause for which the Slum Clearance Board was constituted under the Enactment.

(4) The first respondent/Slum Clearance Board is directed to ensure that the Executives of the Board act in accordance with the Act and the Rules and non-implementation of the provisions of the Act or inefficient functionings, including lapses, negligence and dereliction of duties are to be viewed seriously and departmental disciplinary proceedings are to be initiated against such officials, who all are committing such misconducts, corrupt activities etc.

(5) The writ petitioner is at liberty to proceed against her vendor/second respondent for appropriate remedy in the manner known to law before the Competent Forum.

16. With the abovesaid directions and liberty, the writ petition



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stands dismissed. However, there shall be no order as to costs.

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Speaking Order
Neutral Citation : Yes
Internet : Yes
Index: Yes
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The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk,
Chennai-600 005.

S.M.SUBRAMANIAM, J.

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