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W.P.Nos.7889 of 2023, 25816 of 2022 & 12774 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.7889 of 2023, 25816 of 2022 & 12774 of 2021

and

WMP.Nos.13572 & 13573 of 2021

W.P.No.7889 of 2023:

- 1 S.Anbalagan
2. A.S.Subramanian
3. K.Kannan
4. Pathimuthu
5. Sajitha Parveen ...Petitioners

Vs

1. The Secretary to Government of Tamilnadu,
Housing & Urban Development Department,
Government of Tamil Nadu,
Fort St. George, Chennai.
2. Chairman and Managing Director,
Tamil Nadu Slum Clearance Board,
Triplicane, Chennai ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to complete the construction and handover LIG Flats to the petitioners within a stipulated period that may be fixed by this Hon'ble Court or in alternate pay the House rent for the petitioners from January 2021 till handing over the LIG Flats to the



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petitioners.

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W.P.No.25816 of 2022

Desapitha Mahatma Gandhi LIG Residential Welfare Association, Kanagam
Rep. by its President,
Mrs.Shanthi,
Door No.324, 21st Block,
TNSCB Colony, Kanagam, Chennai – 600 113. ...Petitioner

Vs.

1. The Secretary to the Government of Tamilnadu,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.
2. The Managing Director,
Tamilnadu Urban Habitat Development Board,
No.5, Kamarajar Salai, Near Vivekananda House,
Ayothiya Nagar, Triplicane,
Chennai - 600 005.
3. The Executive Engineer, Division-7,
Tamilnadu Urban Habitat Development Board,
Opp. to Alaiamman Temple,
Chennai - 600 018. ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in respect of the impugned notice no.nil, dated:nil, issued by the 3rd respondent , Tamilnadu Urban Habitat Development Board, Chennai informing in so far as to the



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demolition of existing housing flats at Kanagam, Chennai-600 113, quash the same and direct the 2nd respondent, The Managing Director, Tamil Nadu Urban Habitat Development Board, Chennai, to drop the proposal of the demolition at present.

W.P.No.12774 of 2021:

Desapitha Mahatma Gandhi LIG Residential Welfare Association,
Kanagam Rep. By its Secretary,
Mr.N.Kanagappan
Door No.324, 21st Block, TNSCB Colony,
Kanagam, Chennai – 600 113.

Vs.

1. The Secretary to the Government of Tamilnadu,
Housing and Urban Development Department,
Secretariat, Chennai-600 009.
 2. The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai, Near Vivekananda House,
Ayothiya Nagar, Triplicane,
Chennai-600 005.
- ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in respect of the impugned letter/notice Rc.No.G7/672/2021 dated 27.04.2021 issued by the Managing Director, Tamilnadu Slum Clearance Board, Chennai-600 005, informing in so far as to the reconstruction of 500 tenements (S+5) at Kanagam Scheme in Corporation Division 180 under Housing for All (AHP



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-Vertical III) Scheme, quash the same and direct the 2nd respondent, the Managing Director, TamilNadu Slum clearance Board, Chennai-600 005 to reconstruct the 480 tenements at the existing style with a plinth area application to LIG scheme as requested by the petitioner Association in their letter dated 04.01.2021 or atleast 400 sq.fts now proposed.

In all W.P's.:

For Petitioner : Mr.R.Ramachandran
(in W.P.Nos.12774/2021 & 25816/2022)
: Mr.S.Nambi Arooran
(in W.P.No.7889 of 2023)

For Respondents : Mr.U.Bharanidharan, AGP, for R1
(in all W.P's.)
: Mr.M.Babu Muthu Meran, for R2
(in W.P.Nos.12774/2021 & 25816/2022)
: M/s.K.Indumathy, for R2
(in W.P.No.7889 of 2023)

COMMON ORDER

Since the issue involved in all these Writ petitions are similar in nature, they are disposed of by way of this common order.

2. The case of the petitioners is that, the petitioner in W.P.Nos.12774 of 2021 & 25816 of 2022/the petitioner association's members and others



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have purchased the LIG Housing Flats at Kanagam, Taramani, Chennai-600

113 from the 2nd respondent, Tamil Nadu Slum Clearance Board during the

year 1998 and they have also paid the sale consideration and got sale deeds

in their names. After passage of time, due to the dilapidated condition of the

building, the respondents, on the representation of the petitioner

Association, have informed that they are proposing to demolish the existing

LIG Housing flats and to re-construct a new one in the form of row houses,

which was informed to the petitioner association's members, vide order of

the 2nd respondent dated 27.04.2021 bearing Rc.No.G7/672/2021.

Challenging the same, the petitioner association has come up with the Writ

petition in W.P.No.12774 of 2021. When the said Writ petition was pending

before this Court, the 3rd respondent issued a notice informing the

residents/beneficiaries of the TNSCB Colony, Kanagam to vacate the

premises within a period of one week, in order to carry out the demolition

and reconstruction. Challenging the same, the petitioner association has

come up with the Writ petition in W.P.No.25816 of 2022.

3. While such being the position, pursuant to the communication of the 2nd respondent, some of the flat owners/residents of the said colony,



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including the petitioners in W.P.No.7889 of 2023 have vacated and handed over their flats/houses to the 2nd respondent. However, till date, the 2nd respondent has not started the construction work, due to which, the petitioners are put to huge hardships. Hence, the petitioners have come up with the Writ petition in W.P.No.7889 of 2023, seeking direction to the respondents to complete the construction and handover LIG Flats to the petitioners.

4. Learned counsel for the petitioner association submitted that, admittedly, the entire land belonged to Tamilnadu Slum Clearance Board, which was earlier allotted in favour of certain other persons and in view of their refusal to accept the same, it was sold by way of advertisement, which was purchased by the petitioner association's members and others. After payment of sale consideration of Rs.1,48,160/-, the 2nd respondent executed sale deeds in favour of the petitioners herein and others and ownership was transferred to the petitioners and they are the absolute owners of their respective flats along with the undivided share of the land. While so, the 2nd respondent, who has no power, has passed an order proposing to demolish the existing buildings and reconstruct new one, after collection of additional



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amount of Rs.1,50,000/-, which is illegal and unsustainable.

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5. Learned counsel for the petitioners in W.P.No.7889 of 2023 submitted that, after conducting inspection, the 2nd respondent has come to the conclusion that the subject buildings are not fit for residential occupation as it is in a dilapidated condition and requires demolition and reconstruction. Therefore, by availing the funds from the “Housing for all 2022” scheme Pradhan Mantri Awas Yojana Mission, the 2nd respondent sought to reconstruct the building and directed the residents of the Kangam TNSCB Colony to vacate the premises on or before 31.12.2020 and promised that, the new LIG Flats will be constructed before July 2022. Believing the said words of the 2nd respondent, the petitioners have vacated their Flats during December 2020 itself and are residing in rental houses by paying huge rent. While so, till date, the respondents have not commenced the construction work. Hence, he submitted that, it would suffice, if this Court issues direction to the respondents to complete the construction and handover LIG Flats to the petitioners, after collection of the amount of Rs.1,50,000/- within the time frame stipulated by this Court.



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6. Learned Standing Counsel appearing for the Board submitted that

at the relevant point of time, considering the economic condition of the petitioners herein, LIG tenements were allotted with a plinth area of 200 sq.ft., and sale deed was executed in their favour, though not all the persons/ residents of the Kanagam Colony paid the sale consideration. However, they have been occupying the tenements without paying the entire sale consideration and, therefore, they cannot claim any right over both the flat and the land. However, in view of the condition of the building, the respondents decided to reconstruct the same. Though some persons support the construction, however other persons oppose the construction. In view of the “Housing for all 2022” Mission announced during the year 2015, as part of Pradhan Mantri Awas Yojana the Board has proposed to demolish and reconstruct the tenements by availing major portion of the funds under the said Scheme and contribution only to the extent of Rs.1,50,000/- is demanded from the persons occupying the tenements. It is the further submission of the learned counsel that proposal is only for construction equivalent number of flats as was in existence and the reconstruction is also as per CMDA Development Control Rules. However, due to the pendency of these Writ petitions, the respondents are unable to proceed with the



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reconstruction though a majority of the residents have vacated the premises, accepting the proposal for reconstruction. Hence, he prayed for appropriate orders.

7. On the above said contentions, heard learned Additional Government Pleader appearing for the 1st respondent and perused the material documents placed on record.

8. There are two prayers which arise for consideration of this Court in the present case, one is with regard to direction to the respondents for speedy completion of re-construction work in the Kanagam TNSCB Colony, enabling the petitioners to have a proper residing place, whereas the other is against the re-construction work proposed to be carried out in the said Colony and all these Writ petitions have been filed by the residents of the said Kanagam Colony.

9. Admittedly, the petitioners/residents of the said Kanagam TNSCB Colony were allotted with their respective flats by the Tamilnadu Slum Clearance Board, being satisfied that they belong to economically weaker



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section. While so, when the Slum Clearance Board has decided to demolish and reconstruct the buildings, after taking into consideration the dilapidated nature of the buildings and keeping in mind the safety of the persons occupying the tenements and also considering the fact that almost 70% of the owners have vacated the premises and handed over the flats for demolition and reconstruction, merely because of certain vested interest, other persons want to stall the reconstruction activity, this Court cannot be a party to the said act.

10. It is necessary for this Court to see that the safety and security of the residents is not compromised and at the same time seeing to it that their right to the occupation of LIG flats upon reconstruction is protected. The challenge made by the petitioner that no demolition or reconstruction activity could take place is wholly unacceptable, when majority of the persons have accepted the action of the Board and have handed over their tenements for reconstruction. This Court has to weigh the individual interest against the collective interest and in such a scenario finds that the collective interest outweigh the individual interest and, therefore, the prayer sought for in the Writ petitions in W.P.Nos.12774 of 2021 & 25816 of 2022 cannot be



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granted.

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11. Upon dismissal of the writ petitions in W.P.Nos.12774 of 2021 & 25816 of 2022, learned counsel appearing for the petitioner in the said Writ petitions fairly submitted that, the petitioner association's members will vacate the premises within a period of four months and, therefore, this Court may grant the said period. In view of the aforesaid submission of the learned counsel for petitioner association while dismissing the aforesaid petitions, this Court, is inclined to dispose of the said Writ petitions with a direction to the members of the petitioner association in W.P.Nos.12774 of 2021 & 25816 of 2022 to vacate the premises within a period of two months from the date of receipt of a copy of this order.

12. Insofar as the relief sought for by the petitioners in W.P.No.7889 of 2023 is concerned, this Court, directs the respondents to complete the construction and handover the Flats to the petitioners and other similarly situated persons, after collection of necessary amount of Rs.1,50,000/-, within a period of two years from the date of receipt of a copy of this order.



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13. With the above observations and directions, these Writ petitions

stand disposed of. No costs. Consequently, connected Miscellaneous petitions are closed.

18.04.2023
(1/2)

skt

NCC : Yes/ No
Speaking Order : Yes/ No
Index : Yes/ No

To

1. The Secretary to Government of Tamilnadu,
Housing & Urban Development Department,
Government of Tamil Nadu,
Fort St. George, Chennai.
2. Chairman and Managing Director,
Tamil Nadu Slum Clearance Board,
Triplicane, Chennai.
3. The Managing Director,
Tamilnadu Urban Habitat Development Board,
No.5, Kamarajar Salai, Near Vivekananda House,
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Chennai - 600 005.
4. The Executive Engineer, Division-7,

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Tamilnadu Urban Habitat Development Board,
Opp. to Alaiamman Temple,
Chennai - 600 018.

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M.DHANDAPANI., J.

skt

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and
WMP.Nos.13572 & 13573 of 2021
(1/2)



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WMP.No.8144 of 2023
in
W.P.No.7889 of 2023

M.DHANDAPANI., J.

The present Miscellaneous
petition filed to permit the petitioners
to joint in single Writ petition is
ordered as prayed for.

18.04.2023
(2/2)

skt