



WA No.1129 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WA No.1129 of 2021

K.S.Aslam : Appellant

versus

1.The Secretary to Government,
Housing & Urban Development Department,
Secretariat, Chennai 39

2.The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai 35.

3.The District Collector, Chennai : Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge dated 07.07.2017 in WP No.1050 of 2010.



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For the Appellant : Ms.G.Devi
for Mr.V.Raghupathi

For Respondents 1 & 3 : Mr.K.M.D.Muhilan,
Additional Government Pleader

For 2nd Respondent : Mr.D.Veerasekaran

JUDGMENT

(Made by the Hon'ble Chief Justice)

We have heard Ms.G.Devi, learned counsel for the appellant, Mr.K.M.D.Muhilan, learned Additional Government Pleader for respondents 1 and 3 and Mr.D.Veerasekaran, learned counsel for the second respondent.

2. The present appellant is the original writ petitioner. The appellant had filed writ petition seeking directions to allot land to an extent of 3536 sq.ft. in S.No.766 bearing Door No.431-A, Sharma Nagar, Vyasarpadi, Chennai. The learned Single Judge dismissed the writ petition. Aggrieved thereby, the present writ appeal.



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3. The learned counsel for the appellant mainly relied upon the communication dated 04.07.2016 by the Managing Director, Tamil Nadu Housing Board to the Secretary to Government, Housing Board and Urban Development Department, wherein it was observed that the current request can be considered only as a new extension. The land belongs to the Labour Department. As such, request was made to the Government to pass appropriate order upon the appellant's request. However, the Government had not taken any decision upon it.

4. The learned counsel submits that the appellant is seeking the benefit of G.O.Ms.No.128, Housing and Urban Development Department, dated 24.03.1997. According to the learned counsel, since beginning, the appellant is in possession of the entire 3536 sq.ft. of land.

5. The learned Additional Government Pleader appearing for respondents 1 and 3 and the learned counsel for the second respondent Housing Board submit that in fact, sale deed was executed in favour of the appellant for an area of 1400 sq.ft. as per the said Government order. The appellant was an encroacher. Now, further



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relief cannot be granted.

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6. The learned Single Judge has observed that the Government order referred above would not apply to the vacant land lying adjacent to the appellant's plot.

7. The appellant has already encroached upon the Government land, put up superstructure and is residing there. The Government took a sympathetic view and allotted the originally encroached land for a sum of Rs.9,600/-. Sale deed is also executed in favour of the appellant. The learned Single Judge observed that the essence of G.O.Ms.No.854 is only to facilitate economically weaker sections of the society.

8. In the light of the above, we do not find any case for interference.

9. It is contended that the appellant is in possession of the said additional area. It is for the appellant to approach the Housing Board and/or the Government for purchase of that property, as per the



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market value. In case the appellant approaches the Government or the Tamil Nadu Housing Board, it is for the authority concerned to consider the same on its own merits and take a decision.

10. The writ appeal stands disposed of. There will be no order as to costs. Consequently, CMP Nos.13323 and 13326 of 2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No
tar

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