



W.P.No.2235 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.2235 of 2018

C.Saroja

... Petitioner

Vs.

1. The Principal Secretary / Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai,
Chennai - 600 005.

2. Shymala Sugmaran

3. K.Sudha

... Respondents

(R3 is impleaded in W.M.P.No.24882 of 2022 in
W.P.No.2235 of 2018 vide order dated 03.04.2023 by MDIJ)

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the first respondent to hand over vacant possession of the flat bearing New No.17/9, Old No.94/4, Nochikuppam, Mylapore, Chennai to the petitioner after evicting the second respondent, pursuant to the order dated 07.11.2017 bearing NA/KA No.G6/4277/2017 passed by the first respondent.

For Petitioner	:	Mr.S.M.Murali Dharan
For Respondents	:	Mr.G.Venkatesan
		Standing Counsel for R1
		Mr.S.Elankumaran for R2
		No appearance for R3



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ORDER

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This Writ Petition has been filed for a direction to the first respondent to hand over vacant possession of the flat bearing New No.17/9, Old No.94/4, Nochikuppam, Mylapore, Chennai to the petitioner after evicting the second respondent, pursuant to the order dated 07.11.2017 bearing NA/KA No.G6/4277/2017 passed by the first respondent.

2. The case of the petitioner is that the first respondent allocated a flat bearing No.94/4 situated at Nochikuppam, Mylapore, Chennai to the petitioner's deceased husband vide allotment order dated 08.01.1983. As per the allotment order, the petitioner's late husband had paid the advance amount and had taken possession of the said property. Subsequently, the Government of Tamil Nadu had decided to demolish all the superstructures which were in dilapidated condition and accordingly, the first respondent took up the flat allotted to the petitioner's husband and assured that all the occupants will be re-accommodated at the same premises once the redevelopment was completed. Suddenly the petitioner's husband passed away in the year 2013 and after that the first respondent made mutation in



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the allotment order and the same was also served on the petitioner. During the year 2014, after the redevelopment work was completed by the first respondent, an allotment order dated 03.07.2017 was issued by him allotting New No.7/10 to the petitioner. But the Flat No.7/10 does not correlate with the Old No.94/4 and it correlates only with New No.17/9 and the same was in occupation of the second respondent. Hence, the petitioner has made a representation to the first respondent on 03.07.2017 and the first respondent have also admitted the mistake that the Old No.94/4 correlated only with the New No.17/9 and it was wrongly allotted to the second respondent. Based upon her representation, the first respondent had cancelled the allotment order issued in favour of the second respondent allotting the New No.17/9 and also issued the re-allotment order dated 07.11.2017 to the petitioner. As per the allotment order, she had also paid the amount to the first respondent, but they have not taken any steps to hand over the possession of the premises allotted to the petitioner. Therefore, the petitioner has made representation on 12.12.2017 to the first respondent to evict the second respondent from New No.17/9, Old No.94/4, Nochikuppam, Mylapore,



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Chennai. Hence, the present Writ Petition has been filed.

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3. The learned counsel appearing for the petitioner would submit that though the petitioner was earlier allotted with New Plot No.7/10, which is not correlated with earlier allotment bearing Old No.94/4, for which, the first respondent has passed the re-allotment order allotting New No.17/9 to the petitioner. However, the first respondent refusing to evict the second respondent from the said premises is not sustainable one and he prays for allowing the Writ Petition.

4. The learned Standing Counsel appearing for the first respondent would submit that already the petitioner was occupying the tenement in New No.7/10 and unless the petitioner vacates the premises in New No.7/10, the second respondent cannot be vacated from the premises in New No.17/9. Further, the petitioner has handed over New No.7/10 to her daughter-in law, who has been impleaded as third respondent herein. This Court had already issued a direction to the District Legal Service Authority



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to appoint legal aid counsel for the third respondent, even today, the legal aid counsel has not appeared before this Court.

5. The learned counsel appearing for the second respondent would submit that if any alternative allotment order was made in favour of the second respondent, she is ready to vacate the premises immediately after getting allotment order from the first respondent.

6. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

7. It is seen from the record that admittedly the petitioner was earlier allotted with New No.7/10 and subsequently, the same was handed over to her daughter-in-law, who is the third respondent herein and thereafter she made representation to the first respondent that the Flat No.7/10 does not correlate with the Old No.94/4 and it correlates only with New No.17/9 and the same was in occupation of the second respondent. The



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first respondent has passed an order cancelling the allotment as against the second respondent and the second respondent has also agreed to vacate the premises if any alternative premises is allotted.

8. In view of the above, this Court is inclined to dispose of the Writ Petition with the following directions:

"(i) The first respondent is directed to allot a suitable flat to the second respondent and issue a fresh allotment order to the second respondent.

(ii) On receipt of such allotment order, the second respondent is directed to vacate the premises in New No.17/9 and hand over the same to the first respondent in order to enable the first respondent to hand over the same to the petitioner if the petitioner vacates the third respondent from Flat No.7/10.

(iii) However, the first respondent without hearing the second respondent had mechanically passed the order cancelling the allotment order without giving alternative accommodation to the second respondent.

(iv) The action of the first respondent is highly condemnable, as it is the duty of the allotment authority to



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check for the correct details before making the allotment and because of the inaction on the part of the first respondent, the entire issue has arisen. Hence, this Court is inclined to impose cost on the first respondent. Accordingly, the first respondent is directed to pay cost of Rs.5,000/- (Rupees Five Thousand only) to the second respondent herein."

9. With the above directions, this Writ Petition is disposed of.

03.04.2023

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

vji

To
The Principal Secretary / Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai,
Chennai - 600 005.



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M.DHANDAPANI,J.

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