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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.16422 of 2020

and

W.M.P.Nos.20430 & 20431 of 2020

K.Udhayakumar Jha

.. Petitioner

Vs.

1.The Chairman

Tamil Nadu Slum Clearance Board,  
No.5, Kamarajar Road,  
Chepauk,  
Chennai – 600 005.

2.The Managing Director,

Tamil Nadu Slum Clearance Board,  
No.5, Kamarajar Road,  
Chepauk,  
Chennai – 600 005.

3.Sanjay Thakur

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the issue of the order in proceedings No.Na.Ka.No.E1/15005/2017 dated 20.05.2019 duly passed by the Managing Director Tamil Nadu Slum Clearance Board No.5, Kamarajar



Road, Chepauk, Chennai – 600 005, the 2<sup>nd</sup> respondent therein and quash the same and direct the 1<sup>st</sup> and 2<sup>nd</sup> respondents to consider the issue on the basis of the documents available with them afresh and consequently extend allotment to the petitioner for the extent of 1075 sq.ft. comprised in Plot Nos.34 and 33, 8<sup>th</sup> street, Thyagi Sathyamoorthy Nagar, Thiruvottriyur, Chennai – 600 019.

|                |                                               |
|----------------|-----------------------------------------------|
| For Petitioner | .. Mr.D.Ashok Kumar                           |
| For R1 & R2    | .. Mr.S.Karthikeyan,<br>Standing Counsel      |
| For R3         | .. Mr.R.John Joseph<br>for M/s.Giridhar & Sai |

### **ORDER**

This Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking interference with an order dated 20.05.2019 in Na.Ka.No.E1/15005/2017 issued by the Managing Director, the Tamil Nadu Slum Clearance Board / the 2<sup>nd</sup> respondent.

2.It is stated that the respondents should issue allotment on the basis of the available documents afresh and extend allotment to the petitioner to



an extent of 1075 sq.ft. in Plot Nos.33 and 34, 8<sup>th</sup> Street, Thyagi Sathyamoorthy Nagar, Thiruvottriyur, Chennai – 600 019.

3.The petitioner claims right consequent to purchase dated 07.04.1995 of plots measuring 1075 sq.ft in the aforementioned address, consequent to an unregistered and inadequately stamped sale deed executed by the 3<sup>rd</sup> respondent on 07.04.1995.

4.It is trite in law to point out that such a sale deed can neither grant title nor perfect title. The petitioner, however, claims that he is in possession as on date. The 3<sup>rd</sup> respondent who had so executed the sale deed had no title to convey such sale deed. He had been allotted the said plots by the 1<sup>st</sup> and 2<sup>nd</sup> respondents only on 13.03.1996. There were two plots namely, plot Nos.33 and 34. The 3<sup>rd</sup> respondent is now in possession in plot No.33. He had sold by the aforementioned document, plot No.34 to the petitioner herein.

5.The said sale, even if it is by way of an unregistered document and by an inadequately stamp document indicates that the 3<sup>rd</sup> respondent had



violated the terms of allotment, since no encumbrance can be made for any allotment for a period of 10 years. That is a condition inbuilt in any allotment by the respondents herein.

6. It is thus seen that neither does the petitioner has any right nor does the 3<sup>rd</sup> respondent has any right.

7. The 1<sup>st</sup> and 2<sup>nd</sup> respondents are directed to enquire into the issues and if the petitioner and the 3<sup>rd</sup> respondent have no legal right or title over the property, they are directed to take a decision regarding the allotment itself and even to cancel the said allotment of both the petitioner and the 3<sup>rd</sup> respondent.

8. Even though, the writ petitioner seeks a Certiorarified Mandamus, from a perusal of the records, it is seen that the petitioner and the 3<sup>rd</sup> respondent had entered into an unlawful agreement and such agreement cannot be countenanced by this Court. I hope that the 1<sup>st</sup> and 2<sup>nd</sup> respondents would discharge their duty as public servants and also ensure justification of the salary, which is paid to them out of the taxes paid by the common



people.

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9.The possession of the petitioner is unlawful and the allotment of both Plot Nos.33 and 34 to the 3<sup>rd</sup> respondent is unlawful as on date. The 1<sup>st</sup> and 2<sup>nd</sup> respondents may pass necessary orders in that regard.

10.With the above observations, this Writ Petition stands dismissed.  
No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

23.02.2023

Index:Yes/No  
Internet:Yes/No  
smv

To,

1.The Chairman  
Tamil Nadu Slum Clearance Board,  
No.5, Kamarajar Road,  
Chepauk,  
Chennai – 600 005.

2.The Managing Director,



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Tamil Nadu Slum Clearance Board,  
No.5, Kamarajar Road,  
Chepauk,  
Chennai – 600 005

**C.V.KARTHIKEYAN,J.**  
smv

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