



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.02.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

**W.P.No.33991 of 2022**

T.Anandraj

... Petitioner

**..Vs..**

1. The District Collector  
Singaravelar Maaligai  
62, Rajaji Salai,  
Chennai – 600 001.
2. The Director  
Tamil Nadu Slum Clearance Board  
Kamarajar Salai,  
Chennai – 600 005.
3. The Secretary  
Tamil Nadu Slum Clearance Board,  
EVR Periyar Maaligai,  
Chepauk,  
Chennai – 600 005.
4. The Estate Officer  
Tamil Nadu Slum Clearance Board,  
Kalaighnar Karunanithi Nagar,  
Chennai – 600 078.



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5. The Executive Engineer  
Tamil Nadu Slum Clearance Board, Part-6,  
3<sup>rd</sup> Cross Street, 83<sup>rd</sup> Sector  
Sivalingapuram, K.K.Nagar,  
Chennai – 600 078.

... Respondents

**PRAYER:** Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the 2<sup>nd</sup> respondent to allot a house in newly constructed Slum Clearance Board houses to the petitioner based, on the representation of the petitioner dated 07.12.2022.

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For Petitioner :: Mr. D.Ashok Kumar

For 1<sup>st</sup> Respondent :: Ms. P.Rajarajeswari  
Government Advocate

For RR 2 to 5 : Mr.G.Venkatesan  
TNSCB

### **ORDER**

The Writ Petition has been filed in the nature of Mandamus seeking a direction to the second respondent / Tamil Nadu Urban Habitat Development Board, though in the cause title to the Writ Petition, the previous name, Tamil Nadu Slum Clearance Board is retained, to allot a house in the newly constructed houses to the petitioner based on the representation dated 07.12.2022.



2. In the affidavit filed in support of the Writ Petition, the petitioner states that he had been residing at No. 125, C/7 Boopathy Nagar, Kodambakkam, Chennai – 600 024, for the past nearly 25 years and is also running a petty shop in the above address. He stated that the house at Boopathy Nagar were constructed before 50 years by the second respondent. The second respondent has now taken a decision to demolish the houses and to put up fresh construction. It had been stated that the petitioner made a representation on 17.08.2022 that he must be allotted a fresh house on re-construction. Claiming that no action had been taken on the representation, the Writ Petition has been filed.

3. The respondents have filed their counter affidavit wherein they have stated that Bhoopathy Nagar tenemental scheme is situated on the southern side of Arcot Road in Greater Chennai Corporation Division 135 under zone X, Kodambakkam. It consists of 418 numbers of tenements comprising 27 blocks. They were constructed in the year 1978-1979. They are in a dilapidated condition. They have to be re-constructed. An expert committee had been formed for analysing all the dilapidated buildings.



4. It had been stated that the representations of the petitioner dated 17.08.2022 and 07.12.2022 had been rejected by an order dated 30.01.2023. It had also been stated that the petitioner is running a business at Block No. C-7, Tenement No.27, Boopathy Nagar, Kodambakkam. The said Tenement No.27 in Block No.C-7 had been allotted to Mudiyaappan. The petitioner is the grandson of said Mudiyaappan but the petitioner had encroached parts of other portions by way of setting up the bunk shop called “Eswari Flour Shop” and running the business without permission from the second respondent. It is stated that the petitioner is an encroacher, running a business in the land, abutting Block No. C-7. He had not constructed any house but he is only running the shop.

5. In view of the stand taken in the affidavit and in the counter affidavit, it is clear that the grandfather of the petitioner had been allotted Tenement No.27, C-7 in Boopathy Nagar, Kodambakkam. The petitioner cannot claim any right unless he is recognized as the only legal heir of his grandfather. All the other legal heirs must also give their no objection. Even otherwise the petitioner had encroached into the adjacent land and is running a shop by name “Eswari Flour Shop”.



6. There is no document presented to show that permission had been obtained. The learned counsel stated that the petitioner had been in possession for the past nearly 25 years but that cannot regularise his right to be in possession. His right is always subject to terms and conditions imposed by the respondents. As on date, the respondents have given a clear opinion that the tenements have to be demolished. The petitioner will necessarily have to vacate and hand over possession. The representation given by the petitioner has also been rejected by an order dated 30.01.2023.

7. I would reiterate that the statement made by the respondents in their counter affidavit, namely, *“the houses in the newly constructed scheme would be allotted as per norms and rules prescribed by the Board based the scheme formed after due analysis”*.

8. Recording as above, since the representation has already been examined and rejected by the respondents, the Writ Petition stands dismissed. No order as to costs.

07.02.2023

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order



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To

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

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