



W.P.No.17395 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.17395 of 2017

Chitti Babu

...Petitioner

-Vs-

1. The Managing Director,
Tamilnadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk, Chennai-5.

2. The Executive Officer/Estate Officer,
Tamilnadu Slum Clearance Board,
Mylapore, Chennai-4.

3. Mr.Paramasivam

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in Na.Ka.No.632/ A/2016/ E.A.6 dated 27.12.2016 and quash the same and direct the 2nd respondent to cancel the allotment order in the name of the 3rd respondent and allot the same in the name of the petitioner in respect of the portion situated at Plot No.12, Door No.36, Oorur Kuppam, Besant Nagar, Chennai 600 090.



W.P.No.17395 of 2017

For Petitioner : Mr.S.Thiruvengadam
For Respondents :
(for R1 & R2) : Mr.M.Babu Muthu Meeran
Standing Counsel for TNSC B
(for R3) : Mr.S.Venkatesan

ORDER

The writ petition has been filed to call for the records in pursuant to the order of the second respondent dated 27.12.2016 and quash the same and direct the second respondent to cancel the allotment order granted in the name of the 3rd respondent and allot the same in the name of the petitioner in respect of the portion of the plot at 12, Door No.36, Oorur Kuppam, Besant Nagar, Chennai.

2.The petitioner states that his father late R.Iayyau was originally residing in the plot No.36, Oorur Kuppam, Besant Nagar, Chennai which was a small hamlet of Besant Nager. After the death of the father of the writ petitioner, his elder brother Mr.Paramasivam and second brother Mr.Venkata Raman occupied separate portions of the land and they made an application before the Slum Clearance Board. The petitioner states that he had put up constructions 25 years back and is residing in the said



W.P.No.17395 of 2017

property for about 40 years. The petitioner further states that he is in possession and enjoyment of the portion of the property which is in his occupation and he made a representation to the first respondent Slum Clearance Board to allot the said portion in his name since the plots were allotted in favour of his two brothers, namely, Mr. Paramasivam and Mr.Venkata Raman.

3.The learned counsel for the writ petitioner mainly contended that the father of the writ petitioner was in enjoyment of the property and after his death the elder brother of the petitioner ie., Mr.Paramasivam and his second brother Mr.Venkataraman secured allotment in their favours. However, during the relevant point of time, the petitioner has not made any representation along with their brothers, but he is in occupation of the portion of the plot and has constructed a house and is residing there for several years. The learned counsel for the petitioner reiterated that when the allotment was granted in favour of his brothers, Slum Clearance Board ought to have considered the case of the writ petitioner for the grant of allotment which was not done and thus, the petitioner is constrained to move the present writ petition.



W.P.No.17395 of 2017

4.The learned counsel appearing on behalf of the respondent Slum

Clearance Board objected the said contention by stating that the allotment orders in favour of the two brothers of the writ petitioner were granted based on their representation and considering the possession and the enjoyment of their deceased father. As per the act and rules, the Slum Clearance Board is empowered to execute the sale deed in favour of the allottees who is in possession of the allotted property. It is contended that the allottee must prove their possession and enjoyment enabling the Board to execute the sale. This being the requisite conditions under the act and rules, the Slum Clearance Board is not in a position to execute the sale deed in favour of either of the brothers of the writ petitioner. As far as the writ petitioner is concerned, he is not an allottee, and therefore, the Slum Clearance Board cannot execute any sale deed.

5.The plot belongs to the Slum Clearance Board. The father of the writ petitioner was in occupation of the plot. After his death, two brothers of the writ petitioners submitted a representation and secured allotment in their favour. The petitioner claims that he is in occupation of a portion of the plot and has constructed a house. If at all, the petitioner has to secure any right, the said right is to be acquired only through the



W.P.No.17395 of 2017

allottees after execution of the sale deed by the Slum Clearance Board.

As of now, the brothers of the petitioner have no absolute right in respect of the plot allotted. Mere allotment would not confer title over the property and therefore, the allottees have to secure the sale deed from the Slum Clearance Board by following the procedures and only after getting sale deed from the Slum Clearance Board, the said allottees may transfer the property in the name of the writ petitioner or in favour of any other persons. In other words, only after getting marketable title over the property, the persons are entitled to deal with the property and not otherwise.

6.In the present case, none of the brothers of the petitioner have so far secured the sale deed from the Slum Clearance Board by following the procedures and in compliance with the requirements as contemplated under the act and rules. These being the factum, the petitioner is at liberty to resolve the issues with the allottees and only after securing a marketable title from the Slum Clearance Board in accordance with the act and rules, he can further get transfer of right from the persons, in favour of whom the sale deed, if any, is executed by the Slum Clearance Board.



W.P.No.17395 of 2017

WEB COPY

7. Accordingly, with these liberties, the writ petition is **disposed**

of. No costs.

08.03.2023

Index: Yes

Speaking order

Neutral Citation: Yes

sha

To

1. The Managing Director,
Tamilnadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk, Chennai-5.
2. The Executive Officer/Estate Officer,
Tamilnadu Slum Clearance Board,
Mylapore, Chennai-4.



WEB COPY



W.P.No.17395 of 2017

S.M.SUBRAMANIAM, J.

sha

Writ Petition No.17395 of 2017

08.03.2023