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W.P.(MD)NO.16597 OF 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.16597 of 2015 & 19697 of 2017 AND
W.M.P(MD)Nos.15981 & 15982 of 2017 & 1818 of 2018

W.P.(MD)No.16597 of 2015

M.Ganga Krishnan

... Petitioner

Vs.

The Executive Engineer,
Administrative Officer,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai – 625 001.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to hand over the possession of the commercial site plot No.P1 (R.S.No.21/Part of Managiri Village) to the extent of 0.0495 sq.ft in the light of the petitioner's representation dated 15.08.2015.

For Petitioner : Mr.C.Saravanakumar

For Respondent : Mr.R.Sivakumar

* * *



W.P.(MD)No.19697 of 2017

M.Ganga Krishnan

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Department of Revenue,
Fort St. George, Chennai.
2. The Executive Engineer,
Administrative Officer,
Tamil Nadu Housing Board,
Ellis Nagar, Madurai – 625 001.
3. The Executive Engineer,
Tamil Nadu Slum Clearance Board,
80 feet Road, KK Nagar, Madurai 625 020.
4. The District Collector,
Madurai, Madurai District.
5. Dr.P.Babu
6. Dr.M.Deepa
7. M.Amsavalli
8. C.Muthammal
- 9.The Commissioner,
Madurai Corporation,
Aringar Anna Maligai,
Outpost, Tallakulam,
Madurai – 625 002.

(R-9 is impleaded vide order dated 18.11.2019 in

W.M.P.(MD)Nos.17025 of 2017 and 4939 of 2019) ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in G.O.Ms.No.70 dated 24.01.2006 on the file of the first



respondent to the extent of transferring the petitioner's property in commercial site property in No.P.1 holding T.S.No.497 and S.No.21/1 of Managiri Village at AA Nagar, Madurai measuring 495 sq.ft quash the same as illegal and consequently issue a direction, directing the respondents to scrutinize the title over the commercial site property in No.P-1 holding T.S.No.497 and S.No.21/1 of Managiri Village at AA Nagar, Madurai measuring 495 sq.ft and consequently hand over to the petitioner after duly effecting registration of the same in favour of the petitioner within the time stipulated by this Court.

(The prayer is amended vide order dated 18.11.2019)

For Petitioner : Mr.S.Rajasekar
For R-1 & R-4 : Mr.N.Satheesh Kumar,
Additional Government Pleader.
For R-3 : Mrs.S.Latha
For R-5 & R-6 : Mr.G.Prabhu Rajadurai,
for Mr.J.Anandkumar.
For R-2 : Mr.R.Sivakumar

* * *

COMMON ORDER

Heard the learned counsel on either side.

2. The writ petitioner Thiru.M.Ganga Krishnan was allotted a commercial site measuring an extent of 1.606 sq.ft.



in survey No.497 Managiri Village. A sale deed was executed in his favour on 19.05.1992. According to the petitioner, a corner portion measuring 0.495 sq.ft. had been taken over by one Muthammal. These writ petitions have been filed for securing possession of the said portion. The petitioner is under the impression that the encroached portion was taken over by the Government and allotted to the Tamil Nadu Slum Clearance Board which in turn had sold the same in favour of the encroacher. Muthammal filed injunction suit against the Housing Board. She lost before the Courts below. When the matter was pending at the stage of S.A.No.496 of 1997, she withdrew the same by making an endorsement that her daughter had already got the property from the Tamil Nadu Slum Clearance Board.

3. When the matter was taken up for hearing, the learned counsel for the Tamil Nadu Housing Board clarified that what was sold by the Tamil Nadu Slum Clearance Board in favour of Amsavalli is the plot of land adjacent to the encroached portion and not the encroached portion. If that be so, the very basis of the petitioner's case goes. The petitioner



has questioned the G.O. since he was under the impression that vide the impugned G.O. the petition-mentioned land was allotted to Tamil Nadu Slum Clearance Board.

4. The cause of action does not survive. It is for the parties to work out their rights in the manner known to law. I make it clear that I have not gone into the merits of the matter. Based on the submission made by the learned Standing counsel appearing for the Tamil Nadu Housing Board, these writ petitions stand disposed of.

5. Now that the learned Standing counsel appearing for the Tamil Nadu Housing Board has clarified their stand, it is for the petitioner to pursue the matter with the Tamil Nadu Housing Board. If the encroached land is within the Board lay-out, it has power to remove the encroachment by adhering to due process of law. I make it clear that the liberty given to the petitioner will not in any way prejudice the rights of the private respondents herein. No costs. Consequently, connected miscellaneous petitions are closed.

28.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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W.P.(MD)NO.16597 OF 2015

G.R.SWAMINATHAN,J.

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To:

1. The Principal Secretary,
Department of Revenue,
Fort St. George, Chennai.
2. The District Collector,
Madurai, Madurai District.

W.P.(MD)No.16597 of 2015

28.08.2023