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W.P.No.4134 of 2021

In the High Court of Judicature at Madras

Reserved on: 14.03.2024

Delivered on : 03.06.2024

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.4134 of 2021

and WMP.Nos.4716 and 4717 of 2021

M.Thirukumaran

... Petitioner

-Vs-

1.The State of Tamil Nadu

rep.by its Principal Secretary to Government,
Department of Housing and Urban Development,
Secretariat, Fort St.George, Chennai 600 009.

2.The Superintending Engineer,

Tamil Nadu Housing Board,
Foreshore Estate Division Anna Salai,
Nandanam, Chennai 600 035.

3.The Executive Engineer,

Tamil Nadu Housing Board,
Foreshore Estate Division, Anna Salai,
Nandanam, Chennai 600 035.



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4.BNR Infrastructure Projects Private Limited,

No.923, 17th Main Road, Anna Nagar,

Chennai 600 040.

... Respondents

PRAYER : Writ Petition filed under Article 227 of Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records of the respondent no.1 in G.O.Ms.No.173 dated 20.11.2020 which has been passed with oblique motive to illegally benefiting the respondent no.4 in executing an illegally obtained agreement dated 16.07.2020 for construction of the commercial complex at Peters Colony is without authority and sanction of the government and quash the same and direct the respondent no.1 thereby call for tender afresh.

For Petitioner : Mr.S.Senthilnathan

For Respondents : Mr.S.J.Mohamad Sathik

Government Advocate for R1

Mr.D.Veerasekaran for R2 & R3

Mr.M.Devaraj for R4

ORDER

This writ petition is filed challenging the G.O.Ms.No.173 dated 20.11.2020 which has been passed benefitting the Respondent No.4 in executing an agreement dated 16.07.2020 for construction of the commercial complex at Peters Colony.



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2. It is averred in the writ petition that the petitioner is the allottee of the Housing Unit at Peters Road, Royapettah under Public (General) category vide allotment by respondent No.1-Principal Secretary to Government, Housing and Urban Development Department, vide G.O.Ms.No.182, H&UD.Department dated 26.12.2006.

3. The petitioner would submit that the said housing unit has been demolished during Pongal Holidays. The said housing units were constructed in the year 1972. Since the structural fitness of the building necessitated reconstruction, Respondent No.1 has passed the Government Order bearing No.21 dated 29.01.2013 expressing intention to demolish about 17 buildings.

4. It is the contention of the petitioner that without examining the structural fitness of the buildings by PWD Engineers, some retired professors of IIT Madras and engineers of Housing Board surveyed the buildings and filed report.

5. It is also stated by the petitioner that by awarding tender to the 4th respondent for the construction of commercial complex, the 1st respondent,



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demolished the housing structure. The original plan of construction of housing units which benefits the government servants and others, was actually the proposal in the Government Order and the said rules were not followed in the matters of awarding tender to Respondent No.4. It is stated that the whole functioning of respondents towards the awarding contract to respondent NO.4 is vitiated and the same is without any public cause.

6. The learned counsel for the petitioner would submit that respondent No.1 issued Government Order in G.O.Ms.No.201 dated 30.09.2020 whereby, the occupants at Peters Colony and provided alternate accommodation. However, the demolition of the housing units at Peters Colony was not in the interest of the government servant and therefore, the G.O., requires to be quashed.

7. On notice ordered by this court to the respondents, respondents 2 and 3 filed counter affidavit. It is stated in the counter affidavit that since the 346 rental quarters in 20 blocks for the Government employees, journalists and General public was constructed in the year 1972 by the Tamil Nadu Housing Board was in dilapidated condition, Government decided to demolish the old buildings and shops to develop the scheme as per Development Control Rules.



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Accordingly G.O.Ms.No.21 Housing and Urban Development Department (Hg5(2)) dated 29.01.2013 was issued to demolish the 17 dilapidated Tamil Nadu Government Rental Housing Scheme Buildings in Chennai and the Peters Road colony apartment complex is mentioned in Sl.No.1 in the said Government Order.

8. Pursuant to the said G.O., the scheme proposal for construction of Tamil Nadu Government Rental Housing Scheme (TNGRHS) flats at Thudhunter Nagar has been administratively approved by the Board. After review meeting conducted by the Deputy Chief Minister, it was decided to construct a Multi storied office cum commercial complex in Peters Road Colony. G.O.Ms.No.21 Housing and Urban Development Department was issued on 20.11.2020 for the purpose of usage.

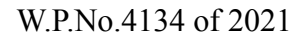
9. It is stated by the respondents 2 and 3 that Tamil Nadu Government Rental Housing Schemes constructed 3646 flats and under Self Financing Schemes, 2608 flats were constructed and in Phase II, 1846 flats are to be constructed. Considering the economy, all defects and replacement value and less revenue to government, demolition of the existing buildings was



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decided and the respondents have acted fairly in accordance with law. Due eviction notice was issued and after getting the structural stability certificate from Authorities, the proposal for demolishing the dilapidated building was sent to Greater Chennai Corporation and necessary permission vide order dated 21.07.2020 was accorded.

10. It is further stated by respondents 2 and 3 that construction of multi-storeyed office cum commercial complex building plans are duly got approved by Tamil Nadu Housing Board and submitted before the CMDA and obtained Planning permission. The Government approved the planning permission in Letter No.121 Housing and Urban development Department (UDI) dated 17.08.2020. The Airport authority of India issued NOC for raising High Raised Building on 24.08.2020. The Fire and rescue department has issued NOC in Letter NO.74/2020 dated 26.08.2020. The CMWSSB also scrutinized the proposal and requested to submit the scrutiny fees for receiving Grey Water and supply of Fresh water to the scheme in Letter No..Area IX/Depot 115/Spl/2020 dated 15.09.2020. The Indian Air Force authority, Police authority, also issued NOC. PWD has issued inundation certificate to the project. Environmental clearance was issued by the State Level Environmental Impact Assessment authority vide letter dated 23.01.2021.



12. It is stated in the counter affidavit that respondents 2 and 3 that the petitioner has no vested rights to question the action of Tamil Nadu Housing Board as well as the Government. The committee of experts after physical inspection found that the building under question is not fit for human habitation and it is to be demolished. The Housing Board has obtained all the approval/permission from the competent authority for redevelopment in accordance with law.



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13. The respondents 2 and 3 also submitted that the tender was published in Times of India and Daily Thanthi on 27.02.2020 and Trade journal on 27.02.2020. After board approval and Board Resolution, tender of 4th respondent was approved. Hence, all the tender formalities were duly followed in awarding the contract to the 4th respondent.

14. It is further stated by the respondents 2 and 3 that challenge to G.O.Ms.No.201 dated 30.09.2020 was already negated by this court in W.P.No.15814 of 2020 by order dated 30.09.2020 and therefore, the present writ petition is not maintainable. The entire decision to construct multi-storied office cum residential commercial complex at Peters Road, Chennai, after demolition of the existing residential units has been ratified by the Government through G.O.Ms.No.173 Housing and Urban Development Department dated 20.11.2020. The Government has accommodated the Peters Road Colony tenements into newly constructed Barracca Road and MKB Nagar Colonies.

15. Heard both side and perused the records carefully.



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16. A perusal of records would go to show that the petitioner challenged the G.O.Ms.No.173 dated 20.11.2020 stating that the construction of the commercial complex at Peters colony and evicting the allottees in the said housing units is illegal. The Tamil Nadu Government, by following due process of law decided to demolish the old buildings and shops to develop the scheme as per Development Control Rules. It was decided in the Tamil Nadu Legislative Assembly on 20.07.2019 that Tamil Nadu Housing Board is going to develop the Multi-storied office cum commercial complex in Peter's Road Colony. After careful examination, Government has issued an amendment to G.O.Ms.No.21 vide G.O.Ms.No.173 Hg and UD (HB3(2) department dated 20.11.2020 amending the purpose of usage.

17. Since the proposal for demolition and reconstruction was approved by the authorities concerned, alternate accommodation to the residential occupants were given. The petitioner herein has also been provided with alternate accommodation.



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18. The petitioner has no vested right to question the action of Tamil Nadu Housing Board as well as the Government. It is also seen that the occupants of Peters Road Colony including Public Quota Rental have been provided alternate accommodation and it is for them to accept or deny. The alternate accommodation provided have been newly constructed units with all the basic amenities available and the same is surrounded by reputed schools, temples, shopping complex and therefore, the Governemnt has considered all parameters to the occupants.

19. Taking note of the Policy decision taken by the Government and the due procedure being following in various stages for redevelopment, the prayer sought for by the writ petition seeking to quash the G.O., does not merit acceptance.

20. Accordingly, this Writ Petition is dismissed. No costs. Consequently connected miscellaneous petitions are closed. No costs.

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nvsri



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Department of Housing and Urban Development,
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