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W.P.No.1400 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2024

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.1400 of 2021

E.Rajan

Vs

.... Petitioner

1. Tamil Nadu Slum Clearance Board,
Rep. by its Chairman cum Managing Director,
No.5, Kamarajar Salai,
Chennai – 600 005.

2. Estate Officer,
Estate Office V,
Tamil Nadu Slum Clearance Board,
T.B.Chatram,
Chennai – 600 010.

3. P.Anbu

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the entire records of the first respondent herein in the impugned order in Na.Ka.Np.e5/3462/2014 dated 15.12.2020 to quash the same and consider the petitioner's request of transfer of allotment/eligibility pertaining to Plot No.76, Salai Ma Nagar, Brickklin Road, Perambur, Chennai in favour of the petitioner's family.

For Petitioner : Mr.S.Sarath Kumar



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W.P.No.1400 of 2021

for Mr.M.Balasubramanian

For R1 & R2 : Mr.S.Karthikeyan
Standing Counsel

For R3 : Mr.K.Bijay Sundar

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 15.12.2020, thereby rejecting the request made by the petitioner for transfer of allotment in his favour and directed the petitioner to submit documents to prove his possession and also to apply along with other legal heirs of the deceased father of the petitioner.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The Plot No.76, Salai Ma Nagar, bearing Door No.56, was allotted in favour of one Eskin @ Velankanni. His name was found in the eligibility list for allotment of house plot by the respondents 1 and 2. While being so, the said Eskin died on 13.04.1986. The petitioner is one of the legal heir of the deceased Eskin. Therefore, the petitioner made a request before the first respondent to transfer the allotment in his



W.P.No.1400 of 2021

favour in respect of the subject property. However, it was rejected and the petitioner was directed to apply along with all other legal heirs by producing the documents to show the possession of the subject property.

4. The third respondent is also claims to be the legal heir of the deceased Eskin and produced the legal heirship certificate as if the said Eskin died without marriage and he had no issues. His legal heir was only his mother viz., Kanni Mariyal. The third respondent is the grandson of the said Kanni Mariyal and he claims to be the allottee of the subject property. The third respondent also produced the installment receipt, property tax receipt, Chennai Metropolitan Water Supply and Sewerage Board receipt for water tax and also no objection certificate from the first respondent. He had also produced other documents to show his possession and enjoyment of the subject property. The third respondent also filed a suit in O.S.No.2832 of 2020 on the file of the XIII Assistant Judge, City Civil Court, Chennai, for bare injunction restraining the respondents from interfering with his peaceful possession and enjoyment of the subject property which is pending.

5. The petitioner also filed a writ petition in W.P.No.4699 of



W.P.No.1400 of 2021

2014 for direction directing the respondents to consider the representation submitted by him seeking to transfer of plot in his favour. As directed by this Court by an order dated 11.09.2019, the first respondent passed an order dated 11.09.2019, thereby concluded that only after disposal of the civil suit filed by the third respondent in O.S.No.2832 of 2020, the request made by the petitioner will be considered. The first respondent also concluded that the petitioner and one Pushparani are the legal heirs of the deceased Eskin. One another legal heir Mr.Velankanni already died and he had two sons and one daughter. Therefore, now for the subject property, two claims from the petitioner side as well as the third respondent side.

6. According to the third respondent, Eskin died without any issues and the third respondent is the only legal heir. According to the petitioner, Eskin had two sons and one daughter and the petitioner is one of the legal heir. That apart, the suit filed by the third respondent is only for bare injunction in respect of the subject property and it is nothing to do the first respondent to decide the issue in accordance with law.

7. In view of the above, the first respondent is directed to conduct a detailed enquiry, after issuance of notice to the petitioner and



W.P.No.1400 of 2021

other legal heirs of the deceased Eskin and the third respondent, give an opportunity of hearing to them and pass appropriate order within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that the petitioner, other legal heirs of the deceased Eskin and the third respondent are at liberty to produce all the documents before the first respondent to substantiate their claim over the subject property. It is made clear that the pendency of the civil suit is not an impediment for the first respondent to pass orders.

8. With the above direction, this Writ Petition stands disposed of. No costs.

05.06.2024

Internet : Yes
Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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WEB COPY



W.P.No.1400 of 2021

G.K.ILANTHIRAIYAN, J.

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To

1. The Chairman cum Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai – 600 005.

2. Estate Officer,
Estate Office V,
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