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W.A.No.122 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2024

CORAM

THE HON'BLE Mr. JUSTICE S.S.SUNDAR
AND
THE HON'BLE Dr. JUSTICE A.D.MARIA CLETE

W.A.No.122 of 2022

AND

C.M.P.No.911 of 2022

1.The Tamil Nadu Slum Clearance Board
Rep. by its Chairman
No.5, Kamarajar Salai
Chennai 600 005

2.The Tamil Nadu Slum Clearance Board
Rep. by its Managing Director
No.5, Kamarajar Salai
Chennai 600 005

3.The Estate Officer
Estate Officer III
Tamil Nadu Slum Clearance Board
Chennai 600 040

.. Appellants

Vs.

1.A.Thangamariyappan

2.K.Thulasi

3.Rita Florence Jekapraj

4.R.Narayanan

5.G.Nandhagopal

.. Respondents



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Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 06.01.2021 passed by the learned Single Judge in W.P.No.10536 of 2019.

For Appellant : Mrs.G.Thilagavathy
Senior Counsel
for Mr.S.Karthikeyan
Standing Counsel

For Respondents : Ms.M.Sneha

J U D G M E N T

(Delivered by S.S.SUNDAR, J.)

This appeal is directed as against the order dated 06.01.2021 passed by the learned Single Judge in W.P.No.10536 of 2019, allowing the writ petition filed by the respondents for issuance of a writ of certiorarified mandamus to quash the order of the 1st appellant dated 08.02.2019 and the 2nd appellant's resolution dated 17.10.2016 and for a direction to the appellants to allot the plot which is in possession of the respondents in S.No.866/9, situated in New Anna Nagar, Thanthai Periyar Nagar and Annai Sathya Nagar in Tirumullaivoyal Village.

2. The brief facts that are necessary for the disposal of this writ appeal are as follows :

2.1. The respondents/writ petitioners are slum dwellers and it is their case



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that they are residing in the land in S.No.866/9, Tirumullaivoyal Village, consisting of three residential areas viz., New Anna Nagar, Thanthai Periyar Nagar and Annai Sathya Nagar. It is the case of the writ petitioners that they are very poor and downtrodden, apart from socially and economically backward and they are in possession of the said survey land for more than three decades by putting up a residential construction.

2.2. The Tamil Nadu Slum Clearance Board (in short “Board”) was entrusted to rehabilitate the slum dwellers, including the writ petitioners. Even though several representations were submitted by the writ petitioners to show that they are in possession in the said survey number by producing material records like aadhaar card, ration card, property tax receipts, etc., the appellants have not passed any orders on the representations.

2.3. However, by the order impugned in the writ petition, the representation of the writ petitioners for allotment, was rejected on the ground that their names are not found in the list of eligible persons prepared through the Board's Engineer. However, in the same communication, the writ petitioners were informed that the Board will take action for allotment, as per the resolution of the Board dated 17.10.2016, in case the writ petitioners are



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willing to pay the guideline value as on date.

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2.4. From the resolution of the Board dated 17.10.2016, it is seen that the Board had resolved that the plots recorded as vacant in the original eligibility list prepared during inception of Tamil Nadu Urban Development Programme and Madras Urban Development Programme schemes, shall be allotted to the persons who claim to live in the plot for more than 30 years continuously after verification of field and relevant documents by collecting the present guideline value of the plot towards the land value.

2.5. The appellants filed a counter affidavit stating that an enumeration was taken for the entire area in the year 1989 and a list of eligible persons who are eligible for assignment was prepared before the implementation of the scheme. It is specifically contended by the appellants that the names of the writ petitioners were not found in the eligible list and allotments were made only in favour of those whose names were found in the enumeration list. It is further stated that the writ petitioners were not residing there and hence, remaining lands were notified as vacant, when the list was prepared.

2.6. Even though a specific contention was raised that the writ petitioners have produced their aadhaar card and ration card as evidence to prove that they



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have obtained electricity connection and property tax had been paid, the appellants reiterate their contention that the writ petitioners are now residing in the plot which was notified as vacant land and the appellants will issue allotment order in favour of the writ petitioners, only if they are willing to pay guideline value of the plot.

2.7. It is pertinent to mention that one Thiruloohana Kumari, who resided in plot No.386 in Annai Sathya Nagar, like the writ petitioners, filed W.P.No.40790 of 2016 against the appellants and sought allotment of a plot. Even in the counter affidavit, it is admitted that pursuant to the order in the said writ petition, an enquiry was conducted and the Board had issued allotment to Thiruloohana Kumari.

2.8. The same stand was taken in the earlier writ petition by the appellants and therefore, the eligibility of another person, who was similarly placed got assignment, pursuant to the directions of this Court is admitted by the appellants. The learned Single Judge, after narrating the facts and contentions of the respective parties, relying upon the order in W.P.No.40790 of 2016, directed the writ petitioners to make a fresh representation along with their documents showing that they have been residing in the respective plots



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and on receiving such representations, the 1st appellant is directed to consider the same and pass orders in accordance with law, in the light of the order passed in the earlier writ petition in W.P.No.40790 of 2016. Aggrieved by the same, the above appeal is preferred.

3. Heard both sides and perused the materials available on record and the records produced by the appellants.

4. From the sequence of events, it is not in dispute that the learned Single Judge allowed the writ petition, following the decision in W.P.No.40790 of 2016. Since it is admitted that the petitioner in W.P.No.40790 of 2016 also got allotment, pursuant to an enquiry as directed by this Court, the learned Judge held that the writ petitioners who are similarly placed also should get the benefit of the order. This order of the learned Single Judge is challenged before this Court, mainly on the ground that the writ petitioners cannot be treated as similar to the petitioner in W.P.No.40790 of 2016 and that the facts are not identical.

5. The learned Senior Counsel appearing for the appellants submitted that the petitioner in W.P.No.40790 of 2016 was a person who sought allotment of a



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vacant plot and therefore, the order of allotment was made in her favour, after enquiry. It is contended by the learned Senior Counsel before us now that the writ petitioners are in possession of the plots for quite sometime and therefore, they are different from the petitioner in W.P.No.40790 of 2016.

6. The contention that the writ petitioners are not similar to the person who filed the earlier writ petition in W.P.No.40790 of 2016, is incorrect and misleading. This Court perused the entire order. The pleadings both in the affidavit and counter in the writ petition is recorded in the order. The petitioner in W.P.No.40790 of 2016 has pleaded the exact case as pleaded by the writ petitioners. Similarly, the same stand taken by the appellants in this case was taken in the earlier writ petition.

7. It is the case of the appellants in the earlier writ petition that they have enumerated a list of eligible persons and the name of the writ petitioner therein was not found in the list enumerated earlier in 1989. The appellants in the present case have come forward with a list prepared in 1988 as a defence to nonsuit the writ petitioners. The contention of appellant that a final list was prepared in 1988, is of course borne out from the records. However, it is to be noted that the appellants are permitted to enter into possession for the



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implementation of the scheme, only after the proceedings of the Commissioner, Land Administration dated 16.09.1994, permitting the Revenue Secretary to hand over the possession to the Board.

8. It is seen that only after G.O.Ms.No.370 Revenue Department dated 09.07.1999, permission was granted for entering into possession for transferring the land in favour of Board. Therefore, the list allegedly prepared by the appellants is not an authenticated list, which this Court cannot rely upon. It is to be seen that the appellants have produced before this Court the proceedings of the District Collector, Chengalpattu, dated 08.01.1992, wherein, it is stated that in respect of land in S.No.866 of Anna Nagar, Periyar Nagar, Annai Sathya Nagar, the District Collector had made an assessment in 1992 and found 714 encroachments and that all the encroachers identified were in possession for more than 10 years.

9. It is admitted that the list prepared in 1988 by the appellants shows only 697 names of eligible persons, who are found to be in encroachment. In the report of the District Collector, it is stated that all those encroachers, who are identified in possession are residing there for more than 10 years. Therefore, this Court is unable to accept the submission of the learned Senior



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Counsel appearing for the appellants that the writ petitioners are not residing in the property, merely because the writ petitioners name were not found in the list prepared by the appellants in the year 1988.

10. This Court finds that the writ petitioners in W.P.No.10536 of 2019 are not different from the petitioner in the earlier W.P.No.40790 of 2016. Therefore, the directions of the learned Single Judge, which is in tune with the earlier order in W.P.No.40790 of 2016, cannot be faulted.

11. In view of the foregoing reasons, this writ appeal stands dismissed. The appellants shall pass appropriate orders as directed by the learned Single Judge, within a period of eight weeks from the date of receipt of a copy of this judgment. No costs. Connected C.M.P. is closed.

[S.S.S.R.,J.] [A.D.M.C., J.]
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