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W.P. No.11470 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2024

CORAM:

THE HONOURABLE **Mrs. JUSTICE V. BHAVANI SUBBAROYAN**

W.P. No.11470 of 2024
and W.M.P.Nos.12582 of 2024

1. N.Annamal
2. A.Bharathi
3. K.Balasundaram
4. E.Yagatha
5. J.Gnanabackiyam
6. R.Mohana priya
7. R.Muniammal
8. M.Noorjahan
9. K.Nandini
10. R.Neela
11. V.Maheswari
12. V.Sengeni
13. S.Nirmala
14. K.Selvi
15. J.Padmavathi
16. E.Suresh
17. M.Lakshmi
18. S.Sandhiya
19. S.Sekar
20. B.Sumathi
21. R.Navaneetham
22. R.Sarala
23. J.Srinivasan
24. F.Sebastian
25. S.Sathyavani
26. J.Umamageswari
27. M.Salomi

.. Petitioners

Versus

1. The State of Tamil Nadu,



W.P. No.11470 of 2024

Rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Secretariat,
Chennai – 600 009.

2. The Chairman,
Tamil Nadu Urban Habitat
Development Board (TNUHDB),
No.5, Kamarajar Salai,
Chepauk,
Chennai – 600 005.

3. The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Poonamallee High Road,
Chennai – 600 003.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents herein from any manner evicting the petitioners without considering their claim of allotment of tenements or alternative accommodations in the locality of B.R.N.Garden, Broadway, Chennai – 600 108.

For Petitioner : Mr.J.Selvarajan

For Respondents : Mr.A.M.Ayyadurai
Government Advocate for R1
Mr.G.Sivakumar
Standing Counsel for R2



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W.P. No.11470 of 2024

Mr.E.C.Ramesh
Standing Counsel for R3

ORDER

This writ petition has been filed for the issuance of a Writ of Mandamus, forbearing the respondents herein from any manner evicting the petitioners without considering their claim of allotment of tenements or alternative accommodations in the locality of B.R.N.Garden, Broadway, Chennai – 600 108.

2. The petitioners are residing in the locality by name B.R.N.Garden, Broadway, Chennai – 600 108 and they have also formed an Association. The second respondent Board namely Tamil Nadu Urban Habitat Developments Board (TNUHDB) (earlier Tamil Nadu Slum Clearance Board), tried to evict the petitioners without giving any alternative accommodation to them. Originally, the land belongs to Chennai Corporation and later on it was handed over to the Tamil Nadu Slum Clearance Board.

3. The learned counsel for the petitioner submitted that if a person resides for more than 30 years in a land which belongs to the respondent Corporation,



W.P. No.11470 of 2024

they can claim adverse possession over the same. But, without considering the request of the petitioners, the respondent board tried to evict the petitioners. In respect of the same issue, similarly aggrieved persons have filed a writ petition in W.P.No. 19754 of 1990 and obtained interim orders. On 28.12.1999, the respondents were directed to consider the claim of the petitioners therein and directed that without giving any alternative accommodation, they should not be evicted. Pursuant to the said order, nothing has been done. Again the respondents are trying to evict the petitioners.

4. The learned counsel for the petitioners further submitted that in the year 1999, the petitioners' association filed a writ petition in W.P.No.1476 of 1999 seeking intervention of this Court against the respondents from evicting them and the same was disposed by directing the second respondent therein to consider the claim of the slum dwellers after affording an opportunity. The petitioners are living in the same place for 6 decades and allotment of tenement has not been considered so far. On the first week of July, 2023, the officials of the third respondent corporation visited the said place and without giving any alternate accommodation, they wanted to evict the petitioners.

5. On 06.07.2023, petitioners gave a representation to the respondents to consider their claim. Since the same was not considered, they again gave a



W.P. No.11470 of 2024

representation on 29.02.2024. Some of the slum dwellers have filed a writ petition in W.P.No.27027 of 2023 and in which notice was sent to the respondents and the same is pending for consideration. The contention of the petitioner is that without following the due process of law, the respondent authorities cannot evict the petitioners since they are living in that area for more than 60 years. Hence, they have to be given an alternative accommodation before evicting.

6. It is learnt that the respondents have taken out a scheme in B.R.N.Garden for construction of 146 (G+1) houses. In 'A' and 'B' Block, 96 houses have been constructed and a sum of Rs.35,04,000/- (Rs.24000/- x 146 houses) was paid as ex-gratia amount on 15.06.2023 and temporary allotment was passed which belongs to Government Corporation area. Block 'A' and 'E' were demolished and the persons who are living there are given with ex-gratia amount of Rs.23,04,000/- and allotment orders have also been issued to them by Tamil Nadu Urban Habitat Development Board (TNUHDB) and they started demolishing Block 'A' and 'B'.

7. Totally, 206 houses and buildings were found to be encroached and for each of them a sum of Rs.24,000/- were allotted as ex -gratia totaling to a sum



W.P. No.11470 of 2024

of Rs.49,44,000/- and the same is yet to be paid. Among 206 houses, temporary allotment for 135 houses have been received and filed regarding temporary allotment have been submitted regarding 27 houses. The learned Standing Counsel for the respondent submitted that the same will be considered by allotting the same to the appropriate deserving eligible families. Further, the allotment for 6 houses were rejected and allotment for 38 houses are pending.

8. The persons whose applications are pending and whose applications are rejected, can approach the Executive Engineer, Zonal Office V, Greater Corporation for considering their application by way of giving representation along with the necessary documents namely the residential proof and other proofs proving that they are residing in the said place for more than thirty years. It should be made clear by the authorities concerned that once an allotment is made to a family, it should be recorded that no further allotment will be issued to any of their family members subsequent to the present allotment.

9. With the above observations, this Writ Petition is disposed of. No costs. Connected miscellaneous petition is closed.



W.P. No.11470 of 2024

24.04.2024

Index: Yes / No
Speaking order / Non speaking order
Neutral Citation Case: Yes / No
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To

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State of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George,
Secretariat,
Chennai – 600 009.
2. The Chairman,
Tamil Nadu Urban Habitat
Development Board (TNUHDB),
No.5, Kamarajar Salai,
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W.P. No.11470 of 2024

V. BHAVANI SUBBAROYAN, J.,

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W.P. No.11470 of 2024

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