



WEB COPY

W.P.No.14025 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14025 of 2020

and

W.M.P.No.17413 of 2020

Tmt.Rajeswari

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai, Chennai – 600 005.

2.The Revenue Officer (Central)/Estate Officer-3,
Slum Clearance Board,
Thirumangalam, Chennai – 40.

3.Tmt.Maheswari

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in his proceedings made in Na.Ka.No.G3/5895/2019 dated Nil.12.2019 and quash the same and consequently direct the 1st respondent to allot and execute the sale deed in respect of plot no.825, LIG (N.V.N. Nagar), Thirumangalam, Chennai in favour of the petitioner.



WEB COPY

W.P.No.14025 of



For Petitioner : Mr.G.Jeremiah
For R1 & R2 : Mr.B.Balaji
For R3 : Not ready in notice

ORDER

The order dated December 2019 issued by the 1st respondent sought to be quashed in the present writ proceedings and further direction is sought for to allot and execute the Sale Deed in respect of plot no.825, LIG (N.V.N. Nagar), Thirumangalam, Chennai in favour of the petitioner.

2. The original allottee one Tmt.M.Raakkammal who executed the Sale Deed in favour of the writ petitioner/Tmt.Rajeswari and the same was requested by the respondent/Tamil Nadu Slum Clearance Board (hereinafter referred to as 'the Board'). Therefore, the petitioner was recognised as an allottee of the tenement under the Tamil Nadu Slum Clearance Board. The petitioner has paid the necessary charges as admissible and as demanded by the Board. While so, the Board took a decision to demolish the entire tenements, since it was not fit for living purpose. During inspection, the Board Authorities found that the original allottee is the petitioner/Tmt.Rajeswari. But she was not in the possession of the tenement



and the 3rd respondent/Tmt.Maheswari is in occupation of the premises. Thus, the petitioner was not considered as eligible person, for the purpose of providing an alternate tenement under the scheme. Therefore, the petitioner has submitted a representation and filed W.P.No.10386 of 2019. This Court directed the Board to consider the representation. The Board has considered the representation and passed the impugned order, stating that the case of the petitioner will be considered after completion of the project at N.V.N.Nagar. The said order came to be challenged in the present writ petition.

3. Mr.G.Jeremiah, learned Counsel for the petitioner would submit that the petitioner, admittedly, was the original allottee and she has paid the entire charges to the Board. The husband of the petitioner had illegally transacted with the 3rd respondent, for which, the petitioner cannot be held responsible, since the husband of the petitioner without the knowledge of the petitioner entered in to an agreement and such agreement was not binding on the petitioner. More so, matrimonial disputes existed between the petitioner and her husband. Thus, the Board ought not to have entertained the claim of the 3rd respondent for providing alternate tenement in *lieu* of allotment made in favour of the writ petitioner.



WEB COPY

W.P.No.14025 of



4. Admittedly, the writ petitioner has not executed any Sale Deed in favour of the 3rd respondent. There is no agreement between the writ petitioner and the 3rd respondent. The husband of the writ petitioner is alien to allotment and therefore, the transaction between the husband of the petitioner and the 3rd respondent cannot be binding on the Board, since the writ petitioner is the original allottee had not violated the conditions of the allotment. The illegal transaction between the husband of the writ petitioner and the 3rd respondent cannot be a ground to declare the writ petitioner as an ineligible candidate for the purpose of providing alternate tenement.

5. In view of the facts and circumstances and considering the fact that the petitioner was the original allottee who had not violated any of the allotment conditions and she is eligible to get an alternate tenement under the new scheme in N.V.N. Nagar, on payment of beneficiary charges and other admissible charges, which is to be paid to the Tamil Nadu Slum Clearance Board now renamed as Tamil Nadu Urban Habitat Development Board. Therefore, the Official respondents are directed to



W.P.No.14025 of

provide an alternate tenement to the petitioner under the newly constituted scheme at N.V.N. Nagar, whenever the process of allotment is undertaken by the Board.

Accordingly, the Writ Petition stands allowed. No costs.

Consequently, connected miscellaneous petition is closed.

30.01.2024

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Index : Yes / No

Speaking order / Non-Speaking Order

Neutral Citation : Yes / No

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WEB COPY



W.P.No.14025 of

S.M.SUBRAMANIAM, J.

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W.P.No.14025 of 2020

30.01.2024