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W.P.No.23608 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.23608 of 2021

Mr.V.Nandagopal

..

Petitioner

-VS-

1. The Secretary
Government of Tamil Nadu
Housing and Urban Development Department
Fort St.George
Chennai 600 009
2. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008
3. The Chairman
Tamil Nadu Slum Clearance Board
Kamarajar Salai, Chepauk
Chennai 600 005
4. The Estate Officer-IV
Tamil Nadu Housing and Urban



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Development Department
No.2, Thiagarayar Salai
Teynampet, Chennai 600 018

5. The Chairman

Tamil Nadu Generation and Distribution
Corporation Ltd.,
144, Anna Salai, Chennai 600 002
(R5 suo motu impleaded vide order
dated 01.11.2021 in WP.23608/21)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent in reference to order vide letter No.1260/UD-VI(2)/2020-5 dated 02.09.2021 and pursuant to which passing of an impugned order by the fourth respondent vide Na.Koo.No.116/A/2019/Ay.A4 dated 20.10.2021 and quash the same and issue a consequential direction of directing the third respondent to allot the Plot No.30, Pillayar Koil Street, T.Nagar, Chennai 600 017 to the petitioner.

For Petitioner :: Mr.A.Palaniappan
for Mr.V.Viswanathan

For Respondents :: Mr.R.Kumaravel
Additional Government Pleader
for R1
Mr.V.Sudalai Selvan for R2
Mr.G.Venkatesan
Standing Counsel for R3 & R4
R5-No appearance



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ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

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This writ petition has been filed by an individual as the Secretary of an unregistered organisation, Bharatha MGR Narpani Mandram. Fact that the organisation is not registered is admitted. Counsel for the petitioner states that the petitioner by name Mr.V.Nandagopal is no more. Despite sufficient opportunity being given to the petitioner to implead the person who is in the line of succession to come on record to prosecute the writ petition, counsel for the petitioner expressed his inability to find any person to prosecute this writ petition.

2. This unregistered organisation is now challenging before this Court the order passed by the Government in the revision petition filed by the petitioner as against the order of locking & sealing and demolition under Section 80-A of the Tamil Nadu Town and Country Planning Act. From the order impugned, it is seen that the property in which the petitioner has put up construction belongs to the Tamil Nadu Slum Clearance Board. From



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the communication received from the then Tamil Nadu Slum Clearance Board, the first respondent has recorded a finding that the Plot No.30 in Pillayar Koil Street has not been allotted to anyone as per the records maintained by the Tamil Nadu Slum Clearance Board. In such circumstances, the construction put up by the petitioner is not only unauthorized, but also by encroachment of public property, which cannot be permitted. Therefore, this Court finds no merits whatsoever in the writ petition.

3. This Court, on the previous occasion, directed the respondents to find out the fair rent as per PWD rates in respect of the space which is encroached by the petitioner. The learned Additional Government Pleader, on instructions, states that the Department has fixed not less than five thousand rupees per square metre in the area in which the encroachment is recorded. The counsel for the petitioner pleads that he is unable to get any information from his client.

4. When an individual has filed a vexatious litigation before this



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Court after encroaching the valuable property of the Government/TNSCB, this Court is unable to accept the explanation offered by the petitioner's counsel that he is unable to identify any person. Apart from the fact that the petitioner has put up an unauthorized construction, the first respondent has categorically found the illegal encroachment by the petitioner occupying a substantial portion of the land belonging to the Tamil Nadu Slum Clearance Board. Even though the property is encroached and the construction is unauthorized, the petitioner successfully prevented the officials from taking any action against the unauthorized construction or the removal of encroachment.

5. Taking note of the aforesaid facts, this Court is inclined to close this writ petition giving liberty to the respondents to take appropriate action not only for demolition of the unauthorized construction pursuant to the impugned order passed by the first respondent, but also for removal of the encroachment within a period of four weeks from the date of receipt of a copy of this order. It is also open to the official respondents to collect any rent by way of damages for the unauthorized use and occupation of the



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building by any private individual or the petitioner from whom possession is taken. Consequently, W.M.P.Nos.24849 & 24851 of 2021 are also closed.

No costs.

Index : yes/no

(S.S.S.R.,J.)

(N.S.,J.)

Neutral citation : yes/no

05.03.2024

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