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W.P.No.25829 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2024

CORAM :

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.25829 of 2022

and

WMP.Nos.24896, 24897 & 31902 of 2022

Priyalakshmi

...Petitioner

Vs.

The Executive Engineer & Administrative Officer,
CIT Nagar - Reorganization Project Line,
Tamil Nadu Housing Board,
Nandanam, Chennai – 600 035.

...Respondent

Petition filed under Article 226 of The Constitution of India
praying for the issuance of a Writ of Certiorari to call for the records of the
respondent dated 20.9.2022 in Ref.No.C.I.T.Na.Ko./586/2022 and quash the
same.

For Petitioner : Mr.R.Gopinath
for M/s.McGan Law Firm

For Respondent : Mr.D.Veerasekaran



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ORDER

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2. The case of the petitioner is that the petitioner's father was in possession of the property at Door No.64/1, CIT Colony, 1st Main Road, CIT Nagar (East), Nandanam, Chennai measuring an extent of 110 sq.ft., in which, she was running a tea shop from 1989 and he was the sole breadwinner of the family. After the petitioner's father fell ill, the petitioner started running a tea shop in the subject property and the petitioner has been paying property tax to the Greater Chennai Corporation from 1998 till this date and has also obtained electricity, water and sewage connections in the subject property from the Chennai Metropolitan Water Supply and Sewerage Board and the Tamil Nadu Generation and Distribution Corporation Limited as the case may be and is paying the bills raised from time to time regularly. The petitioner also obtained the trade licence from the Greater Chennai Corporation to run the tea shop. In the recent past, in



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order to develop a residential apartment complex, the respondent Board acquired a vacant land nearby the tea shop run by the petitioner. Further, the officials of the respondent Board also directed the petitioner to demolish the tea shop even though it is not causing any hindrance to general public. In addition, the respondent, vide impugned communication dated 20.09.2022, directed the petitioner to remove the tea shop. Challenging the same, the petitioner is before this Court.

3. Learned counsel for the petitioner submitted that, the disputed property in which the petitioner is running a tea shop does not belong to the respondent board and the petitioner, after obtaining necessary license from the Chennai Corporation is running the shop and if at all there is issue, it is the Corporation which has to issue a show cause notice to the petitioner and the respondent board has no *locus standi* to call upon the petitioner to shift the shop. Further, though the petitioner does not have any title document to prove the ownership of the subject land, she produced certain documents to prove that she is in continuous possession of the subject property for the past three decades from the year 1989. Learned counsel further submitted that the respondent Board had not followed the procedure contemplated under the Madras State Housing Board Act, 1961 and had straight away

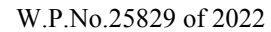


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issued the impugned communication, which cannot be acceded to.

Accordingly, he prayed for appropriate orders.

4. Per contra, the learned counsel appearing on behalf of the respondent submitted that, the petitioner is an encroacher enjoying the set back of the building and boundary line of plot No.21 of the respondent Board to an extent of 200 sq.ft (8 m X 25 m) and the adjoining corporation platform and that the encroachment came to light only after the demolition of the buildings located in 7.61 grounds. Further, it is evident from the demolition permission approved by the Greater Chennai Corporation for pocket 8 that there is a compound wall of the respondent Board pertaining to the earlier scheme for a stretch of 18.89 meters along the North Road and a 2.79 meter curved splay, which was earmarked as boundary line because plot No.21 had shop site and a hotel earlier and hence, for the road approach, the compound wall was not constructed and the petitioner had taken advantage of the situation and constructed the tea shop and without producing any documentary evidence to prove her ownership, the petitioner is claiming right over the property, which is belonging to the respondent Board. Learned counsel further submitted that, mere fact that the petitioner has been paying the property tax, the sewage tax and the electricity



Further, the land in question belongs to the respondent Board, that it has been proposed to implement a scheme for construction of flats for the benefit of general public and that instead of giving a reply to the notice served on her and without furnishing any document to prove the ownership, the petitioner filed this writ petition, which is a mere attempt of the petitioner to drag on the proceedings. However, learned counsel fairly submitted that, this Court may issue direction to the Corporation Surveyor and the officials of the respondent board and the Chennai Corporation to survey the subject property and if it is established that the petitioner has encroached the board property, liberty may be granted to the board to evict the petitioner in the manner known to law.

5. In view of the above submission made by the learned counsel appearing for the respondent, this Court, without interfering with the impugned order, directs the Surveyor attached to the Corporation to measure the subject property in the presence of the petitioner and the officials of the Corporation as well as the Housing Board and find out if the petitioner has encroached the property belonging to the respondent board



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and on the basis of the said survey, if it is established that the petitioner had encroached the board property belonging to the respondent housing board, liberty is granted to the Housing Board to evict the petitioner in the manner known to law, after affording an opportunity of hearing to the petitioner.

6. With the above observations and directions, this Writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous petitions are closed.

06.09.2024

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Index : Yes (or) No
Neutral Citation : Yes (or) No
Internet : Yes (or) No

To

The Executive Engineer & Administrative Officer,
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M.DHANDAPANI, J.

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