



W.P.No.2615 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

CORAM

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

W.P.No.2615 of 2022

and

W.M.P.No.2766 of 2022

S.Datchayani,
Aged about 27 years,
D/o.Late Mr.A.Selvaraj
No.81, Vinayagapuram,
V.G.P.Salai, Saidapet, Chennai

... Petitioner

Vs.

1. The Chairmen
Tamilnadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk (Near Vivekandanda House),
Chennai-600 005.

2. S.Rekha
W/o.Anand Kumar
No.81, Vinayagapuram,
V.G.P.Salai, Saidapet, Chennai.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the first

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respondent in proceeding N0o.721 of 1996 dated Nil and Na.Ka.Proceedings 479/06/B/E07 dated 21.06.2006, issued by the first respondent in joint allotment of the housing plot in Plot.No.81 and quash the same and further issue consequential direction to the first respondent, to allot the housing plot in the name of both the petitioner and the second respondent by considering the petitioner's representation dated 23.08.2021 and proceed further in accordance with law.

For Petitioner : Mr.A.T.Raja

For Respondents : Mr.M.Babu Murthy for R1

: No Appearance for R2

ORDER

This writ petition is filed by the petitioner seeking to call for the records of the first respondent in proceeding No.721 of 1996 dated Nil and Na.Ka.Proceedings 479/06/B/E07 dated 21.06.2006, issued by the first respondent in joint allotment of the housing plot in Plot.No.81 and quash the same and further issue consequential direction to the first respondent, to allot the housing plot in the name of both the petitioner and the second respondent by considering the petitioner's representation dated 23.08.2021 and proceed further in accordance with law.

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2. The case of the petitioner is that the disputed plot was originally allotted by the first respondent herein i.e., Tamil Nadu Slum Clearance Board on 21.06.2006 in the name of the petitioner's father Late A.Selvaraj and the second respondent herein namely A.Rekha. At the time of allotment of the housing plot, both the petitioner and the second respondent were minors. Legally, the housing plot has allotted in the name of the petitioner's father alone, due to some foul play and mistakenly, the name of the second respondent was also added, who at that time was minor. It is pertinent to note that all the installments of the payments for the purchase of the housing plots were borne by the petitioner's father.

3. The further case of the petitioner is that after the demise of the petitioner's father, in the year 2017, both the petitioner and the second respondent herein entered into a deed of mutual understanding, to divide the shares in the housing plot and and constructed their respective houses in the said vacant land allotted by the first respondent herein and mutually agreed not to interfere in their respective shares in the housing plot. Thereby, the backfront of the housing plot to an extent of 540 sq.feet was taken by the second respondent herein, who constructed a house and in the front portion



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of the vacant plot, the petitioner has constructed a house in 422.6 sq.ft land, leaving 3½ feet edge portion to an extent of 119 sq.ft as a passage as mutually agreed by both the petitioner and the second respondent herein. Separate electricity connection was taken for petitioner's house and the second respondent house. The local municipality taxes was paid in the name of the petitioner's father until his demise. Thereafter, the petitioner's newly constructed house had become eyesore for the second respondent and the second respondent had started to quarrel with the petitioner for petty reasons and threatened the petitioner and tried to evict the petitioner from her house with the help of local anti-social elements. The matter has further worsened, when the second respondent tried to build a compound wall surrounding petitioner's house. The petitioner has tried to arrange a panchayat consisting of the elders and well-wishers from the locality, to mediate and to arrive an amicable settlement, which failed due to the egoistic behavior and attitude of the second respondent herein.

4. The second respondent and her husband attacked the petitioner and her children, which led to filing of complaints before the local police station, who failed to take action against the second respondent and her



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husband. Lastly, the complaint was received by the Deputy Commissioner of Police, Adyar Range on 01.02.2021.

5. Now, the second respondent and her husband is trying to evict the petitioner from her house by saying that the plot was allotted in her name and the petitioner has no right to reside in the place. The petitioner is residing at her house along with two children, one of whom is a mentally challenged child and the house was constructed with her hard-earned life savings. Both the father and mother of the petitioner died several years ago and the second respondent and her husband by taking advantage of the same were trying to evict the petitioner from her own house. Following which, the petitioner had given a representation to the first respondent on 23.08.2021, but till date no actions were taken by the respondent . Hence, the present petition .

6. The act of the second respondent to evict from her house is illegal and the allotment of the housing plot by the first respondent jointly in the name of petitioner's father and second respondent herein through proceeding number 721/1996 dated 21.06.2006 is also arbitrary, illegal, and liable to be quashed.



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7. The first respondent herein has filed a counter, wherein it is stated that the allotment order was in favour of the second respondent, however, the initial deposit and the other installments were paid by the second respondent alone on 11.06.1994 for a sum of Rs.462/- vide receipt No.76824, on 16.06.2006 for a sum of Rs.596, vide receipt No.165107 in all she had paid a sum of Rs.1058/- In pursuance to the same, allotment order was issued in her favour by the board on 21.06.2006 in 'as is where is' condition. It is further stated that the inspection made by the board reveals that the petitioner and the second respondent are in possession of the property to an extent of 422.6sq.ft and 540 sq.ft respectively as per the agreement dated 23.12.2017 between them.

8. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the materials placed before this Court.

9. Learned counsel appearing for the petitioner submits that mistakenly, the housing plot was allotted jointly in the names of petitioner's father and sister (then minor) and all the installments of payment relating to purchase of housing plot were made by the petitioner's father. Though after



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the demise of their father, the petitioner and second respondent mutually agreed to partition the housing plot and constructed houses in their respective portions, now the second respondent, taking advantage of the allotment of housing plot in her name jointly with her father, is attempting to evict the petitioner. The efforts taken by the petitioner to arrive at a settlement with the help of panchayatars also failed and therefore the petitioner has come up with the writ petition with the above prayer.

10. Learned counsel appearing for the first respondent submits that there was an unregistered memorandum of understanding between the petitioner and the second respondent which is not binding on the first respondent as the first respondent has already made allotment in favour of the second respondent mentioning her father's name. Inspection made by the authorities also revealed that both the petitioner and the second respondent are in possession of the property to an extent of 422.6 sq ft. and 540 sq. ft. respectively, as agreed between them.

11. Considering the fact that the dispute is purely civil in nature between the private parties, the relief sought for by the petitioner for cancellation of allotment order issued in the joint names of the second



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respondent/sister and her father and for a consequential direction to the first respondent to allot the housing plot both in her name and the second respondent cannot be granted.

12. In the result, this Writ Petition is dismissed. However liberty is granted to the petitioner to work out the remedy before City Civil Court in the manner known to law. No order as to costs. Consequently, the connected miscellaneous petition is closed.

07.08.2024

Vv

To

The Chairmen
Tamilnadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk (Near Vivekandanda House),
Chennai-600 005.



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M.DHANDAPANI, J.

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