

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.12.2018

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.34629 of 2018

and

WMP No.40143 of 2018

S.Devi

... Petitioner

-vs-

1. The Chairman & Managing Director,  
Tamil Nadu Slum Clearance Board,  
No.5, Kamaraj Salai,  
Chennai - 600 005.

2. The Tamil Nadu Slum Clearance Board,  
Rep. by its Assistant Secretary (Tenement),  
No.5, Kamaraj Salai,  
Chennai - 600 005.

3. The Executive Engineer,  
Tamil Nadu Slum Clearance Board,  
T.P.Chatram, Division - 4,  
Chennai - 600 010.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents to dispose of the representation of the petitioner dated 27.11.2018 and consequently direct the respondents to allot a flat at Athipattu, Ambattur Taluk in the name of the Petitioner (S.Devi) within a date fixed by this Hon'ble Court.

For Petitioner : Mr.N.Poovanalingam

For Respondents: Mr.S.Prabhu (for R1 to R3)

Standing counsel for TNSCB

O R D E R

This writ petition has been filed, seeking for a direction to the respondents to dispose of her representation dated 27.11.2018, with the consequential direction to the

respondents to allot a Flat at Athipattu, Ambattur Taluk, in her name.

2. The case of the petitioner is that she had made a representation dated 27.11.2018 to the respondents for allotment of tenement at Athipattu and she has been residing at Door No.1175, Kakkanji Nagar Kudisai Paguthi, ICF, Chennai and in proof of her residence in the given address, she has produced necessary documents, such as Aadhar Card, Voter's Identity Card and other documents. It is the further case of the petitioner that the Slum Clearance Board had also recognized her residency in the said address.

3. It is represented by the petitioner that in the Biometric list at Sl.No.60, one K.Ramani is shown to be the occupier of the house at Door No.1175 by the Slum Clearance Board and the name of the petitioner did not find place. It is also represented that one P.Devi, residing in Door No.1174 is the mother of K.Ramani and the said K.Ramani is shown to be in occupation at Sl.No.1175, which is against the policy of the Government that only one of the family members is entitled to allotment of tenement and as such, the act of the Government in allotting two tenements to two person, who belong to the same family, is unsustainable and unacceptable.

4. Per contra, it is contended by Mr.Prabhu, learned standing counsel for Tamil Nadu Slum Clearance Board that during the course of enumerating process, even though the petitioner's name has been shown as a resident of D.No.1175, on verification, it was found that petitioner was not actually residing in that place and therefore, the names of balance left out persons totalling 23 have been considered and accommodated at Perumbakkam. It is further contended that as early as in the year 2011, enumeration / bio metric system had taken place and names have been enlisted and after a lapse of seven years, the petitioner has come forward with an innocuous prayer to dispose of her representation.

5. Learned standing counsel appearing for the respondents drew the attention of this Court the communication of the Slum Clearance Board, from which, it is very clear that all persons, who resided at Kakkanji Nagar were considered as encroachers and they have no right at all and the Government has taken steps to accommodate the encroachers in different places and as the tenements at Athipattu have already been allotted to others, other 23 persons, whose names find reflected in the Communication dated 26.12.2018, have been allotted tenements at Perumbakkam.

6. In reply to the above submission, the learned counsel appearing for the petitioner would submit that a fraud has been committed by the respondents and that the Door Numbers have been suitably altered in order to suit their convenience so as to accommodate the same family members at the same place, especially when K.Ramani was not residing in that place. According to the petitioner, her name also finds place in the enumerated / bio metric system.

7. Heard the learned counsel on either side.

8. It is not in dispute that all persons, who have been accommodated in Perumbakkam and Athipattu tenements were encroachers in Kakkanji Nagar Kudisai Paguthi, ICF, Chennai. The encroachers have been given alternate tenements with a condition that they should reside in that place only and that they have no right to demand a particular place in the area. At the same time, the contention of the petitioner that more than one family member cannot be allotted tenement in a particular place, cannot be brushed aside, as according to the petitioner, Devi and Ramani are relatives and they have been given a separate allotment in the same locality, which needs to be scrutinized and verified. If it is found to be an error or incorrect allotment, it is open to the authorities to take necessary steps to cancel the same, after affording opportunity to both of them, so that allotment given to one of them shall be cancelled. This direction given to the authorities will not inure to the benefit of the petitioner to take a plea that she has to be accommodated at Athipattu, as, admittedly, those, who have paid the beneficiary contribution alone have been allotted alternate tenements and according to the respondents, the petitioner's name did not find place in the enumerated / bio metric System and since she has not paid the beneficiary contribution, her name was not considered.

9. It is represented by the learned counsel for the petitioner that she has been accommodated at Perumbakkam on temporary basis and Mr.Prabhu, learned counsel for the respondents would submit that they are willing to provide her permanent tenement at Perumbakkam with the same line of conditions stipulated to others at Athipattu.

10. Considering the overall facts and circumstances of the case, it is directed that in case it is found that the petitioner was residing at Door No.1175, Kakkanji Nagar Kudisai Paguthi, ICF, Chennai - 600 038 and that the records have been either tampered or erroneously entered, the case of the petitioner may be considered, provided, she pays the necessary charges that are required for getting tenement.

11. Before parting with the case, I am of the view that it is very unfortunate that the Government is giving a premium to the encroachers, by giving an alternate site. This would amount to encouraging encroachments, so that the encroachers will definitely get an alternate site, where they can reside at the cost of exchequer money, which has been collected from the tax payers. The Government should ensure that this kind of encouragement with respect to the grant of alternate shelter to encroachers should not be extended and the same has to be stopped forthwith and allotment of alternate tenement is not going to give any solution to the problem.

12. It is pertinent to mention here that according to the Comptroller and Auditor General of India's (CAG) report tabled in the Assembly, 23.9% of the Government Lands in Chennai District were encroached upon as of June last year; that the encroachments had serious consequences with private individuals grabbing Government land and that lack of coordination between the revenue and other line departments in the State is the main reason for such encroachments. From the above report, it appears that "Be an encroacher, not a law abiding citizen" might be the motto of any Government in the State of Tamil Nadu.

13. With the above observation and direction, this Writ Petition is disposed of. No Costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ars/dsa

To:

1.The Chief Secretary,  
Fort St.George, Chennai-9.

2.The Secretary  
Housing and Urban Development Department,  
Fort st. George, Chennai-9.

3. The Chairman & Managing Director,  
Tamil Nadu Slum Clearance Board,  
No.5, Kamaraj Salai,  
Chennai - 600 005.



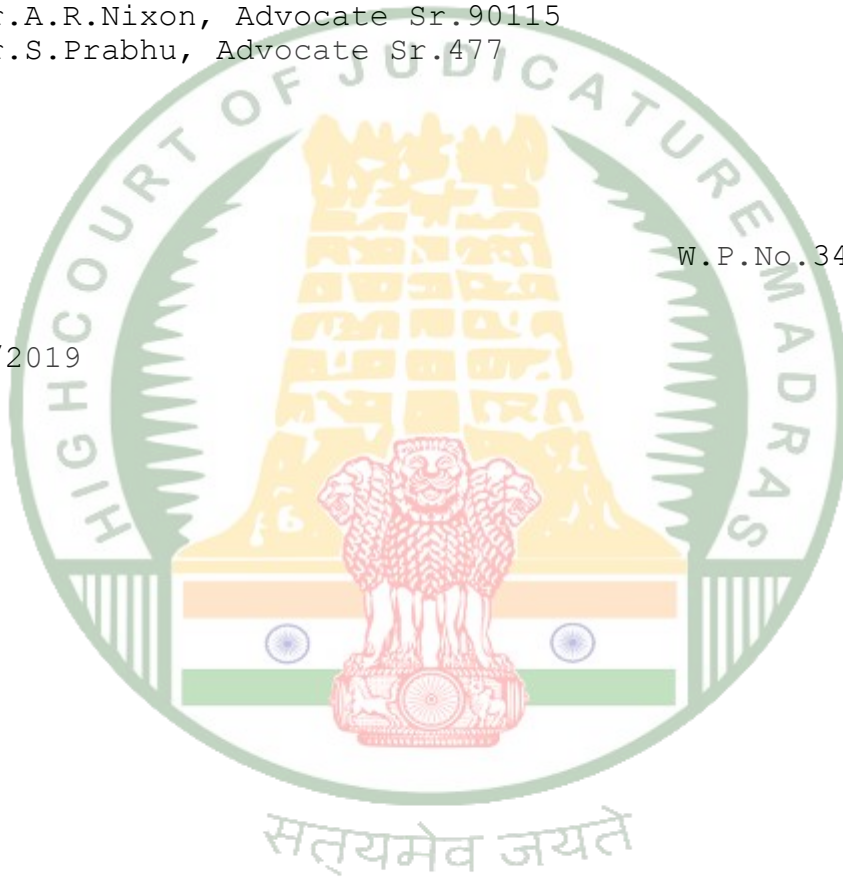
4. The Assistant Secretary (Tenement),  
Tamil Nadu Slum Clearance Board,  
No.5, Kamaraj Salai,  
Chennai - 600 005.

5. The Executive Engineer,  
Tamil Nadu Slum Clearance Board,  
T.P.Chatram, Division - 4,  
Chennai - 600 010.

+2cc to Mr.A.R.Nixon, Advocate Sr.90115  
+1cc to Mr.S.Prabhu, Advocate Sr.477

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