

(2014) 02 MAD CK 0164

In the Madras High Court

Case No : Writ Petition No. 25044 of 2012 and M.P. No. 1 of 2012

R. Peter Doss

APPELLANT

Vs

The Chairman, Slum Clearance Board, The Managing Director
and The Chief Engineer, Public Works Department

RESPONDENT

Date of Decision : 18-02-2014

Acts Referred:

Citation : (2014) 02 MAD CK 0164

Hon'ble Judges : M. Venugopal, J

Bench : Single Bench

Advocate : N. Beulah John Selvaraj, for the Appellant; I. Sathish for Mr. R.V. Babu for Respondent-1, Mr. M. Jothikumar for Respondent-2 and Mr. S. Navaneetham for Respondent-3 A.G.P., for the Respondent

Final Decision : Disposed Off

Judgement

M. Venugopal, J.—The Petitioner has filed the instant Writ of Certiorarified Mandamus praying for issuance of an order by this Court, in calling for the records of the First Respondent in Na.Ka. No. G9/19956/2012 dated 17.05.2012 and to quash the same. Further, the Petitioner has sought for passing of an order by this Court in directing the Second Respondent to recommend his name to the First Respondent for allotment of house at No. 1383, III Nizhal Salai, Kannagi Nagar, Duraipakkam, Okkiyam, Chennai-97, wherein, he and his family are presently residing. According to the Petitioner, he was residing at Door No. 196, Water Tank Road, Kalvaithurai, Kilpauk, Chennai-600 010 along with his family members for more than 25 years. His mother died in the said place. He has a ration card bearing the same address and also obtained the voters I.D. Card. The Third Respondent had vacated all the persons from the said place (including the Petitioner and his family members) and demolished the building on 26.12.2009. All of them, were put on the street and one lorry bearing Registration No. TN. 049736 loaded all the household articles and sent to Kannagi Nagar where it was unloaded. However, no house was allotted to him.

2. The plea of the Petitioner is that he had resided at Door No. 196, Water Tank Road, Kalvaithurai, Kilpauk, Chennai-600 010 for more than 25 years and there are necessary proof in this regard. As a matter of fact, the Second Respondent/Managing Director, No. 1, Pumping Station, Metro-Water Supply & Sewerage Board, Chintadripet, Chennai-600 002 failed to recommend his name to the First Respondent/Tamil Nadu Slum Clearance Board, Kamarajar Salai, Chennai-5.

3. That apart, the First Respondent allotted eight houses to a single person who possesses only one ration card. Whereas he has ration card, voter I.D. Card to prove the place where he lived. His son's identity card issued by the School shows that Petitioner is now residing at No. 1383, III Nizhal Salai, Kannagi Nagar, Duraipakkam, Okkiyam, Chennai-97. The First Respondent/Tamil Nadu Slum Clearance Board, Chennai sent a communication to the Petitioner informing him that the Second Respondent had not recommended his name for allotment of house. The Second Respondent/Managing Director, No. 1, Pumping Station, Metro-Water Supply & Sewerage Board, Chintadripet, Chennai-600 002 should have recommended his name to the First Respondent/Tamil Nadu Slum Clearance Board, Chennai, then only First Respondent shall allot the house to him but the Second Respondent failed to recommend his name for allotment of house at Kannagi Nagar.

4. It transpires that the Petitioner earlier filed W.P. 24539 Of 2011 and this Court on 14.11.2011 directed the First Respondent/Tamil Nadu Slum Clearance Board, Chennai-5 (Competent Authority) to consider the claim made by the Petitioner without expressing anything on the merits and further directed the First Respondent to consider the Representation of the Petitioner dated 20.09.2011 and pass appropriate orders within a period of three months from the date of receipt of a copy of the order.

5. The First Respondent in terms of the orders of the High Court dated 14.11.2011 passed in W.P. No. 24539 of 2011 conducted an enquiry. In the said enquiry, the Petitioner stated that he had produced all relevant documents to show that he was residing at Door No. 196, Water Tank Road, Kalvaithurai, Kilpauk, Chennai-600 010. He suffered a lot without allotment of house and as such, he was perforce to issue a legal notice on 07.07.2012 to the Second Respondent to recommend his name to the First Respondent for allotment of house. The Second Respondent had not recommended his name to the First Respondent for allotment of house for his shelter.

6. The stand of the Petitioner is that the First Respondent's officials often visiting his house and forcing him and his family members to vacate and hand over the vacant possession in respect of Door No. 1383, III Nizhal Salai, Kannagi Nagar, Duraipakkam, Okkiyam, Chennai-97. In fact, the First Respondent passed an order in Na.Ka. No. G9/19956/2012 dated 17.05.2012 inter-alia stating that Second Respondent had not recommended the Petitioner's name and as such, he could not considered his application and rejected his plea.

7. A Perusal of the typed-set of papers filed by the Petitioner to the present Writ Petition shows that the Petitioner was issued with the family ration card for the period from 2005-2009. Also, that the Petitioner and his wife on 07.05.2010 were issued with the Voters I.D. Card.

8. Apart from the above, the Petitioner's mother R. Esther died on 24.11.2007 and in this regard, the Corporation of Chennai, Department of Public Health issued a death certificate. The Death Certificate of Petitioner's mother bears the address No. 196, Water Tank Road, Kalvaithurai, Kilpauk, Chennai-600 010. The Petitioner's son's school identity card bears the date 09.08.2010.

9. As far as the present case is concerned, the First Respondent had passed the impugned order on 17.05.2010 addressing the same to the Petitioner among other things stating that at the time when huts were removed by the Chennai Metropolitan Water Supply and Sewerage Board at Water Tank Road, Kalvaithurai, Kilpauk, Chennai-600 010, necessary documents to show that the Petitioner had resided could have been produced before the Tamil Nadu Water Supply and Sewerage Board office and only when the said office recommends the name of the Petitioner for allotment of house at Kannagi Nagar, then only the request of the Petitioner could be considered and therefore, at present, her request could not be acceded to. Significantly, though the impugned communication dated 17.05.2012 made a reference to the Petitioner as the recipient of the communication in the impugned order, the Petitioner's name was not mentioned but instead one Tmt. Vimala's name was mentioned. Obviously, an inadvertent error had crept in at the time of passing of an order in regard to the description of the Petitioner wrongly.

10. In view of the fact that in the impugned order dated 17.5.2012, the First Respondent had categorically stated that it is only the Second Respondent who is to pass appropriate orders and recommend the name of the Petitioner in regard to an allotment of an house in the interest of justice set aside the impugned order dated 17.05.2012 passed by the First Respondent. Further, this Court based on Equity, Fair Play, Good Conscience and even as a matter of prudence, directs the Petitioner to produce all the records in his possession like Ration Card, Voter I.D. Card, Death Certificate of His mother, His son's Identity card and such other records by submitting a detailed representation with quantitative and qualitative particulars before the Second Respondent/Managing Director, Tamil Nadu Water Supply and Sewerage Board, Chintadripet within a period of two weeks from the date of receipt of a copy of this order. The Second Respondent on receipt of the detailed representation and necessary documents from the Petitioner is to pass appropriate orders after taking into consideration the documents produced by the Petitioner in a Fair, Objective and dispassionate manner and to pass a reasoned, speaking order on merits uninfluenced with any of the observations made by this Court in this Writ Petition within a period of four weeks thereafter (of course after providing necessary opportunities to the Petitioner by adhering to the Principles of Natural Justice). With the aforesaid

directions, the Writ Petition is disposed of. Till such time, the Second Respondent/ Managing Director, Tamil Nadu Water Supply and Sewerage Board, Chintadripet passes an order, the Respondents are directed to maintain status quo and not to disturb the possession of the Petitioner. Consequently, connected Miscellaneous Petition is also closed. No costs.