

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Special Leave Petition (C) Nos. 9120-9121 of 2015

Mrs. Ramani

.Appellant(S)

Versus

The Tamil Nadu Slum-Clearance Board & Ors.

..Respondent(S)

J U D G M E N T

M. R. Shah, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 06.09.2006 in Writ Appeal (WA) No. 1785/1999 and subsequent order dated 22.12.2014 in Review Petition No. 145/2006 in WA No. 1785/1999 passed by the High Court of Judicature at Madras, the original allottee of the land in question has preferred the present Special Leave Petitions.
2. As the petitioner herein was allotted a plot bearing No. 25 in Thirumoolar Colony Scheme area by the Tamil Nadu Slum Clearance Board. The petitioner paid all the amounts

payable in pursuance of the said allotment. She was also issued with a No Objection Certificate for obtaining water connection and drainage connection. However, before putting up any construction, she was required to obtain the permission from Chennai Municipal Corporation to put up construction. The petitioner applied for approval of the building plan on 15.03.1996. But without waiting for the approval to be granted to the building plan, she proceeded with the construction. It appears that the plot in question was earmarked as “public convenience.” A civil suit bearing OS No. 326/1996 was filed against the Board so as to restrain the Board in making allotment to the individual. Hence, the plot allotted to the petitioner was required for the “public purpose.” At this stage, it is required to be noted that the Chennai Metropolitan Development Authority (CMDA) originally granted approval to the layout in the scheme “town planning scheme” which showed the land in question to be earmarked for “public convenience.” However, since the plot allotted to the petitioner was required for the public purpose, the CMDA did not approve the proposal for making the allotment. That thereafter, the

Slum Clearance Board cancelled the allotment of the plot in question by proceedings dated 03.06.1996. It appears that despite the order of cancellation vide proceedings dated 03.06.1996, the petitioner continued with the unauthorized construction and even without the building plan getting sanctioned/approved. According to writ appellant before the Division Bench of the High Court, the petitioner along with 50 persons stormed into the colony and began demolishing the public lavatory. Therefore, writ petition came to be filed before the High Court being Writ Petition No. 11868/1996 and W.M.P. No. 16016/1996, directing the Slum Clearance Board to remove illegal construction by submitting that there are above 400 families residing in the said colony therefore, the Slum Clearance Board has constructed public toilets, bathrooms, etc., in plot No. 25 to cater the needs of the residents of the locality.

- 2.1 The petitioner herein filed the writ petition before the learned Single Judge being Writ Petition No. 10441/1996 challenging order 03.06.1996 cancelling the allotment, the

learned Single Judge allowed the said writ petition setting aside the cancellation of the allotment by observing that there was no jurisdiction with the Slum Clearance Board to cancel the allotment.

2.2 Feeling aggrieved and dissatisfied with the order passed by the learned Single Judge, respondent No. 2 herein – Thirumoolar Colony has preferred the present writ appeal before the Division Bench of the High Court. The Division Bench of the High Court by a detailed judgment and order has set aside the order passed by the learned Single Judge by observing that as the plot was intended for a public purpose under the layout for the scheme approved by the Chennai Metropolitan Development Authority and the same was intended for a public purpose, the same could not have been allotted in favour of an individual and also by observing that construction put up by the petitioner herein was absolutely illegal and un-authorized construction even without getting the building plan sanctioned by the Chennai Municipal Corporation.

2.3 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the Division Bench of the High Court the original allottee has preferred the present Special Leave Petitions.

3. Shri Shyam Divan, learned Senior Advocate has appeared on behalf of the petitioner and Shri Amit Anand Tiwari, learned AAG has appeared on behalf of the respondent – State.

3.1 Shri Shyam Divan, learned Senior Advocate appearing on behalf of the petitioner has assailed the impugned judgment and order passed by the High Court on the following grounds and submitted as under: -

(i) That respondent No. 2 herein – writ appellant had no locus to file the writ appeal as the writ appellant cannot be said to be an aggrieved person;

(ii) That the Slum Clearance Board whose order of cancellation of the allotment was set aside has accepted the judgment and order passed by the learned Single Judge;

(iii) That in the area/locality in question full development has taken place and therefore, the land is not need for any public utility;

(iv) That the petitioner has put up the construction after getting the plans sanctioned may be subsequently.

3.2 On the other hand learned counsel appearing on behalf of the respondent – State/Board has vehemently submitted that as the plot in question was reserved for public utility/public convenience for the locality under the sanctioned scheme by the Chennai Metropolitan Development Authority and when despite the above the land was allotted in favour of individual dehors the scheme sanctioned by the Chennai Metropolitan Development Authority and the families residing in the said colony/locality were deprived of the facility of the public toilets/bathrooms, etc., it cannot be said that original writ appellant had no locus and they cannot be said to be an aggrieved person. Reliance is placed upon the decision of this Court in the case of **Bangalore Medical Trust Vs. B.S. Muddappa and Ors.; (1991) 4 SCC 54 (para 29)**. It is

submitted that it is observed and held by this Court in the aforesaid decision that the residents of the locality are the persons intimately, vitally, and adversely affected by any action of the Development Authority which deprived them of facilities given for their enjoyment.

3.3 On merits it is vehemently submitted that the petitioner put up the un-authorized and illegal construction without getting the building plan sanctioned from the competent authority/municipal corporation and by using force and even the allotment in favour of the petitioner was absolutely illegal, as the plot allotted to the petitioner was reserved for public convenience, reserved under the scheme sanctioned/approved by the Chennai Metropolitan Development Authority under town planning scheme/master plan, the same could not have been allotted to any individual. It is submitted that immediately within few months even before any construction was put up the allotment in favour of the petitioner came to be cancelled. It is submitted that thereafter the Division Bench of the High Court has not committed any error in

quashing and setting aside the judgment and order passed by the learned Single Judge. It is submitted as such the true, correct, and full facts were not brought to the notice of the learned Single Judge which have been considered by the Hon'ble Division Bench of the High Court while passing the impugned judgment and order.

4. We have heard learned counsel appearing on behalf of the respective parties at length.
5. At the outset it is required to be noted that as such the plot in question was originally reserved/earmarked for "public convenience" pursuant to the approved layout under the scheme sanctioned by the Chennai Metropolitan Development Authority. The plot in question was therefore required to be used for "public utility" only. It appears that in fact the public toilets and the bathrooms were constructed which were being used by the family members of the colony. However, immediately on getting the allotment in her (petitioner) favour the public toilets, bathrooms came to be demolished/damaged and immediately the writ appellant filed the original suit as well

as the subsequent writ petition before the High Court. Within a few months the allotment in favour of the petitioner came to be cancelled by proceedings/order dated 03.06.1996. Though the petitioner applied for approval of the building plan on 15.03.1996, without waiting for the approval to be granted to the building plan by the Chennai Municipal Corporation, the petitioner proceeded with the construction. Not only that at the time when the petitioner put up the construction, the petitioner was aware of the litigation(s) and despite the same she put up the construction. Therefore, thereafter when the allotment has been cancelled having found it to be illegal and contrary to the sanctioned layout in the scheme by the Chennai Metropolitan Development Authority and thereafter, when the construction put up is found to be unauthorized, the petitioner cannot claim any equity. The petitioner put up the construction despite the restrain order. From the order passed by the learned Single Judge, it appears that the true, correct, and full facts were not placed before the learned Single Judge. Therefore, the Division Bench of the High Court has rightly interfered with the judgment and

order passed by the learned Single Judge quashing and setting aside the cancellation of the allotment in favour of the petitioner.

6. Now so far as the submissions made on behalf of the petitioner that the writ appellant cannot be said to be an aggrieved person and had no locus to file the appeal, more particularly, when the Slum Clearance Board did not challenge the order passed by the learned Single Judge is concerned, the aforesaid has no substance. It is required to be noted that under the sanctioned layout scheme by the Chennai Metropolitan Development Authority, the plot in question was earmarked for public convenience and the same was required to be used and in fact was being used by the family members of the colony for public toilets, bathrooms, etc. As observed and held by this Court in the case of **Bangalore Medical Trust** (supra) the development scheme is meant for reasonable accomplishment of the statutory object which is to promote the orderly development of the city. It is further observed and held that the residents of the locality are the persons intimately,

vitality, and adversely affected of any action of the development authority and the Government which is destructive of the Government and which deprives them of facilities reserved for the enjoyment and protection of the health of the public at large. Therefore, when the land earmarked for public convenience was taken away and was allotted in favour of the private individual, the residents and locals were deprived of the right to use the plot for public convenience and therefore, the writ appellant can be said to be an aggrieved person with the order passed by the learned Single Judge.

7. In view of the above and for the reasons stated above and having found that the plot in question was reserved/earmarked for public convenience for the residents of the locality/colony which could not have been allotted in favour of individual and that the construction put up by the petitioner was absolutely illegal and unauthorised, no error has been committed by the Division Bench of the High Court quashing and setting aside the judgment and order passed by the learned Single Judge

setting aside the cancellation of the allotment. We are in complete agreement with the view taken by the High Court.

8. In view of the above and for the reasons stated above there is no substance in the present Special Leave Petitions and the same deserve to be dismissed and are accordingly dismissed.

.....J.
(M. R. SHAH)

.....J.
(M.M. SUNDRESH)

NEW DELHI,
NOVEMBER 24, 2022.