

ITEM NO. 101

COURT NO. 7

SECTION XII

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NOS. 143-144 OF 1998@@
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Chairman, TN Housing Board and Anr. ... Appellant (s)

Vs.

B Sajjan Bai and Anr. ... Respondent (s)

(With office report)

Date: 29-11-2000 This/These matter(s) was/were called
on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

For appellant (s) Mr. AK Ganguli, Sr.adv.
Mr. A Mariarputham, adv.
Ms. Aruna Mathur, adv.
Mr. Anurag D. Mathur, adv.

For respondent (s) Mr. Raju Ramachandran, Sr.adv.
Mr. Rakesh Dwivedi, Sr.adv.
Mr. R Anand Padmanabhan, adv.
Mr. Rakesh Kr. Sharma, adv.

UPON hearing counsel, the Court made the following
O R D E R

The appeals are allowed. There shall be
no order as to costs.

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(Alka Dudeja)
Court Master

(S. Krishnan)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Chairman, T.N. Housing Board & Anr.

& Appellants

Vs.

B. Sajjan Bai & Anr.

& Respondents

O R D E R

Appellant no.1 herein is the Housing Board constituted under the Tamil Nadu Housing Board Act (hereinafter referred to as 'the Board/'). One of the functions of the Board is to develop plots of land and allot the same to the public on payment of its price. It appears that under a housing scheme plots of land were developed by the Board and under that scheme, Balwant Raj, husband of respondent no.1 was allotted a plot of land No.1341 in Anna Nagar, Chennai. It appears that the said plot of land was allotted to some other member and instead the husband of the respondent was allotted plot No.2976-F. It is alleged that the husband of respondent accepted allotment of the said plot of land. Thereafter, a lease deed was executed in his favour. On 22.11.89 Balwant Raj died. After his death, the respondent applied for mutation as well as for substitution, which was allowed. Subsequently, the respondent filed a petition under Article 226 of the Constitution of India in the High Court of Madras for direction to the Board to give an alternative plot in lieu of plot allotted to her husband. The said writ petition was dismissed. An appeal was filed against the decision of the single Judge which was also dismissed. Thereafter, a special leave petition was filed in this Court. This Court passed the following order:

"The respondent will consider whether any other plot is available for allotment to the petitioner which is larger in area. If it is not available, the petitioner be allotted plot No.2976-F. It is clarified that the decision of the respondent in this regard will be the matter in their discretion and not subject to challenge in a Court of law."

It is stated that a review petition was filed by the respondent, but the same was rejected. It is also stated that subsequently the respondent filed a petition under Article 32 of the Constitution of India, but the same was dismissed as withdrawn. Not contented with the orders passed by this Court, the respondent again filed writ petition No.22435/93 renewing her prayer for allotment of another plot in lieu of plot No.2976-F. The respondent also filed writ petition No.457/94 in which challenge was to the allotment of plot No.995-F in favour of one F.I. Jaffar Ali. Writ Petition No.457/94 was dismissed. When writ petition No.22435/93 came for hearing, the High Court of Madras directed the Board to allot 5,000 sq. ft. from plot No.4415-A2 in Anna Nagar. It is against the said judgment, the Board is in appeal before us.

Shri Ganguli, learned senior counsel appearing for the appellants, urged that in view of the order passed by this Court in SLP © No.16905-06/91, it was not open to the High Court to entertain the writ petition filed by the respondent and issued a direction to the Board to allot an alternative plot in lieu of plot No.2976-F. There is merit in this contention. We have already extracted the order passed by this Court. Even the review petition filed by the respondent was dismissed. Therefore, the High Court was not justified in entertaining the petition at the instance of the respondent for finding an alternative plot in lieu of plot No.2976-F. This Court on unequivocal terms held that in case any other plot is not available then plot No.2976-F could be allotted to the respondent and that will not be subject to challenge in a Court of law. We, therefore, find that the High Court has acted contrary to the order passed by this Court and thus the said judgment under appeal is not sustainable. We, therefore, set aside the judgment under

appeal.

Learned counsel, appearing for the respondents, urged that plot No.2976-F in fact is encroached by the villagers and by the impugned order, substantial justice has been done to the respondent and, therefore, this Court may not interfere with the matter. It is pointed out by the learned counsel for the appellants that encroachment from plot No.2976-F was already removed. However, learned counsel for the appellants stated that in case encroachment is still there, the Board will remove the remaining encroachment and will deliver possession of plot No.2976-F within eight weeks from today.

The appeals are allowed. There shall be no orders as to costs.

& & & & & & & & & & J.
(V.N. Khare)

& & & & & & & & ..J.
(K.G. Balakrishnan)

New Delhi,
November 29, 2000.