

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.02.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.6935 of 2014

M.Sathiya Nathan

.. Petitioner

Vs.

1. The Chairman
Tamil Nadu Slum Clearance Board
Kamarajar Salai,
Chennai 600 004.
2. The Estate Officer
Estate Office -7,
Tamil Nadu Slum Clearance Board
K.K.Nagar, Chennai 600 078.
3. The Board Administrative and Executive Engineer
Tamil Nadu Slum Clearance Board
K.K.Nagar, Chennai 600 078
4. Mariappan @ Pazhanivel rep. by his brother
C.Anbanandhan @ Anandhan
5. G.Murugan .. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of mandamus to direct the respondents 2 & 3 to take action on the petitioner's representation dated 11.7.2013 and the counsel notice dated 28.01.2014 to vacate and remove the encroachments made by the respondents 4 & 5 in the common lane passage allotted for the common use of the allottees of Plot Nos. 7, 8 & 9 in the South-west Boag Road Scheme of the Tamil Nadu Slum Clearance Board.

For Petitioner	: Mr.R.G.Annamalai
For Respondents	: Mr.B.S.Sundara Moorthy - R1 to R3 Mr. Nambi Arooran -R4

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. Heard Mr.R.G.Annamalai, learned Counsel appearing for the petitioner and Mr.B.S.Sundara Moorthy, learned counsel appearing for respondents 1 to 3 and Mr. Nambi Arooran, learned counsel for the fourth respondent.

3.The petitioner has come forward with the Writ Petition for issuance of a writ of mandamus to direct the respondents 2 & 3 to take action on his representation dated 11.7.2013 and the counsel notice dated 28.01.2014 to vacate and remove the encroachments made by the respondents 4 & 5 in the common lane passage allotted for the common use of the allottees of Plot Nos. 7, 8 & 9 in the South-west Boag Road Scheme of the Tamil Nadu Slum Clearance Board.

4.The petitioner would state that the private respondents have encroached into the common passage and inspite of notice being issued by the official respondents, till date no action has been taken to remove the encroachment.

5.The learned counsel appearing for the respondents 1 to 3 submits that there is no such encroachment.

6.This Court cannot decide this issue in the Writ Petition, as to whether any encroachment has been made in the common area. Admittedly, Flats have been constructed by the Tamil Nadu Slum Clearance Board by developing a Scheme. Therefore the Tamil nadu Slum Clearance Board is the authority which is competent to ascertain and find out as to whether any encroachment has been made in common passage, etc.

7.Therefore, there will be a direction to the respondents 2 & 3 to conduct surprise inspection of the entire complex, including the area notified by the learned counsel for the petitioner, respondents 4 & 5 and on conducting such inspection, a report shall be prepared and wherever there is an encroachment, respondents 2 & 3 shall issue notice to such encroachers, giving seven days time to remove the encroachment, failing which the respondents 2 & 3 are entitled to remove the encroachments and in this regard they may also seek for adequate Police help. The above exercise shall be carried out within a period of three weeks from the date of receipt of a copy of this order.

The Writ Petition is disposed of accordingly. No costs.
Consequently, connected Miscellaneous Petition is closed.

rpa

-s/d-
Assistant Registrar(LA)
Dt:10/2/2015

True Copy

Sub-Assistant Registrar

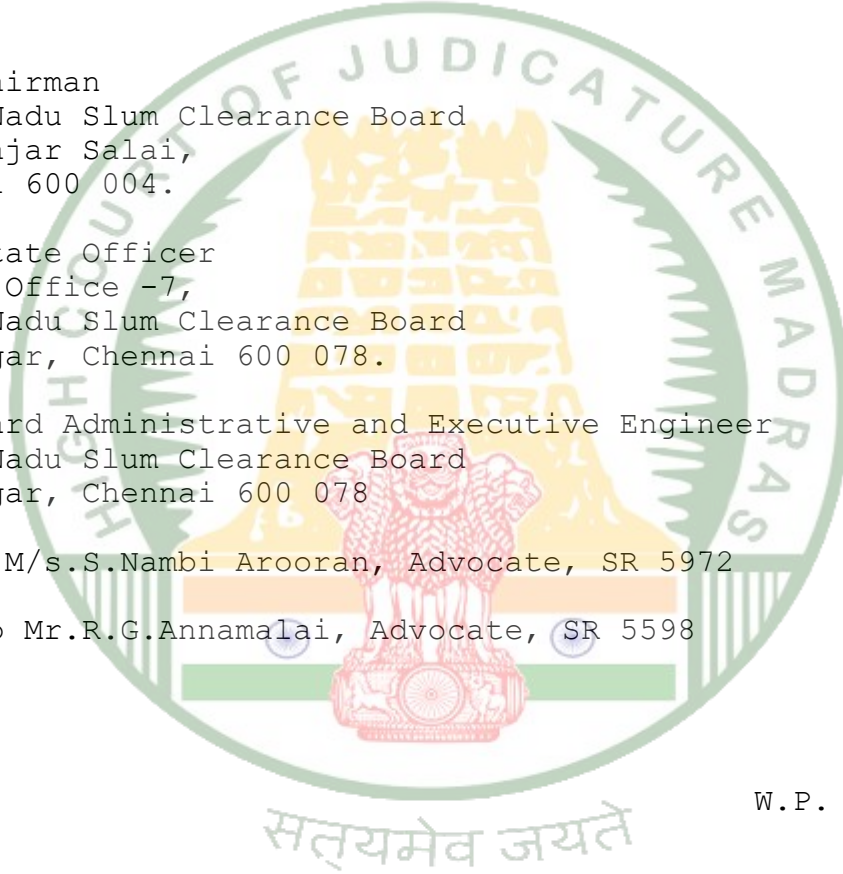
To

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Tamil Nadu Slum Clearance Board
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+ 1 cc to M/s.S.Nambi Arooran, Advocate, SR 5972

+ 2 ccs to Mr.R.G.Annamalai, Advocate, SR 5598

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