

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 14192 of 2015

&

M.P. No. 1 of 2015

B. Ramesh Bhagwandass

..Petitioner

Vs.

1. The Secretary to Government,
Municipal Administration &
Water Supply Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.
3. The Asst. Commissioner,
Corporation of Chennai,
Zone VI, Ayanavaram,
Chennai - 23.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the respondents to consider the petitioner's representations dated 24.04.2015 and 29.04.2015 and provide alternate place either behind or adjacent to the existing shop in T.S. No. 64, Door No. 244, Paper Mills Road, Perambur, Chennai - 600 011, or in any other place and consequently direct the respondents not to take any coercive steps to evict the petitioner till such allotment of alternative place.

For Petitioner :: Mr.M.Muthappan

For Respondents:: Mr.RM. Muthukumar,
Govt. Advocate for R1
Mr.P.V. Selvakumar
for R2 & R3

O R D E R

This writ petition is filed for issue of a Writ of

Mandamus directing the respondents to consider the petitioner's representations dated 24.04.2015 and 29.04.2015 and provide alternate place either behind or adjacent to the existing shop in T.S. No. 64, Door No. 244, Paper Mills Road, Perambur, Chennai - 600 011, or in any other place and consequently direct the respondents not to take any coercive steps to evict the petitioner till such allotment of alternate place.

2. The petitioner's father was a refugee from West Pakistan and he was allotted a vacant place at Door No. 244 (Old No.180), Paper Mills Road, Perambur, Chennai - 600 011, during the year 1948-49 by the State Government to establish a shop for his livelihood on monthly rent. The petitioner's father established a small cloth shop in the said land and had been paying professional tax and property tax to the Corporation. After the demise of the petitioner's father, the petitioner has been running the business.

3. In 2002, when the Corporation attempted to demolish the shop, the petitioner filed W.P. No. 3540 of 2002 before this Court to forbear the respondents, namely, the Corporation as well as the Revenue Department from evicting the petitioner without due process of law and on 16.09.2009, the writ petition was disposed of observing that the respondents can evict the petitioner only by following due process of law. When things stood so, on 23.04.2015, the officials of the Corporation came to demolish the petitioner's shop. Therefore, the petitioner made representations to the Assistant Engineer, Corporation of Chennai, Ayanavaram (Zone VI), the District Collector as well as to the Commissioner, Corporation of Chennai on 24.04.2015 requesting them not to demolish the shop and to provide an alternate site, which is readily available behind/adjacent to the existing premises. But, there was no response. Therefore, again on 29.04.2015, the officials of the 3rd respondent informed the petitioner that his shop would be demolished for widening the Paper Mills Road. Thereafter, again, the petitioner made a detailed representation on 29.04.2015 to all the respondents. So far, the said representation has not been considered. Hence, the petitioner is before this Court.

3. Heard Mr.M. Muthappan, learned counsel for the petitioner and Mr.RM> Muthukumar, learned Government Advocate for R1 and Mr.P.V. Selvakumar for R2 & R3.

4. The case of the petitioner is that his father was a refugee from West Pakistan during 1948-49 and his father was allotted the land in question. It is proved by the receipts produced by the petitioner, which have been issued from 1955 onwards that the ground rent receipts were issued by the Tahsildar and other officials. The Refugees Relief Committee, by certificate dated 16.07.1981, has also certified that the

petitioner's father was a bona fide displaced person from Karachi, West Pakistan. The property tax has been levied on the petitioner by the Corporation upto date and the property tax receipts would prove the said fact. So, when the petitioner's possession has been proved by official documents, the respondents cannot demolish the shop, even for widening the road, without offering an alternative site. What is to be considered is that the petitioner's father was a displaced refugee from West Pakistan, who migrated to this part of India after partition. Such a family needs to be protected. As already observed, the petitioner's family has been paying ground rent right from the date of allotment as well as property tax regularly. Therefore, the petitioner should be allotted an alternative site and as per the submission of the petitioner's counsel, the alternative site is very much available behind the existing shop. Therefore, the 2nd and 3rd respondents are directed to allot the alternative site to the petitioner, which is located behind the present shop of the petitioner. Without making allotment of an alternative site, the petitioner's shop shall not be demolished or the petitioner shall not be dispossessed. The extent of property to be allotted should be in consonance with the extent of property, which is under the occupation of the petitioner at present. Therefore, the respondents are directed to measure the existing property and corresponding to the extent of property, now possessed by the petitioner, the alternative site should be allotted to the petitioner. The writ petition is disposed of accordingly. No costs. Connected M.P. is closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

nv
To

1. The Secretary to Government,
Municipal Administration &
Water Supply Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

3. The Asst. Commissioner,
Corporation of Chennai,
Zone VI, Ayanavaram,
Chennai - 23.

+1 CC to Mr.M.Muthappan, Advocate, sr.55719
+1 cc to Government Pleader, sr.55488
+1 cc to Mr.P.V.Selvakumar, Advocate, sr.56031

W.P. No. 14192 of 2015

vsn co
kra 04/11/2015



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