

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2015

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THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.P. No.29028 of 2015
and
M.P.No.1 of 2015

1.C.Ealumalai
2.S.Kannan
3.M.Jayalakshmi
4.P.Palani
5.J.Sraswathi
6.S.R.Arumugam
7.P.Manohar
8.R.Durai
9.K.Radhakrishnan
10.N.Baby
11.Kamala
12.P.Munnian
13.V.Nagaraj
14.S.Suresh
15.S.Ramamoorthy
16.S.Pavunamal
17.T.Murugan

.. Petitioners

Vs.

1.The Commissioner,
Rain Water and Sewerage Department,
Chennai Corporation,
Chennai-3.
2.The Executive Engineer,
Rain Water and Sewerage Department,
Chennai Corporation,
Chennai-3.
3.The Zonal Officer,
7th Zone, Chennai Corporation,
Ambattur,
Chennai-53.
4.The District Collector,
Thiruvellore District,
Thiruvellore.

5. Government of Tamilnadu,
represented by its Secretary,
Public Works Department,
Chennai-600 009.

.. Respondents

The writ petition is filed under Article 226 of the Constitution of India seeking a writ of mandamus forbearing the respondents from interfering with peaceful possession and enjoyment of their own residential places at Padikuppam Canal Area, Gandhi Nagar, Anna Nagar West, Chennai-600 040 and consequently direct the respondents to protect the right of living with dignity of the petitioners.

For petitioners : Mr.K.M.Malarmannan

For Respondents : Mr.A.Nagaraj for RR1 to 3
Mr.P.S.Sivashanmugasundaram, Spl.G.P
for RR4 and 5

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

Invoking the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India, the petitioners, stated to be living in the river belt of the rain water canal for 40 years, have come up with this writ petition, praying for writ of mandamus, forbearing the respondents from interfering with peaceful possession and enjoyment of their own residential places at Padikuppam Canal area, Gandhi Nagar, Anna Nagar west, Chennai and consequently seeking direction to the respondents to protect the right of living with dignity of the petitioners.

2 According to the learned counsel for the petitioners, petitioners were granted ration card, Aadhaar card and voters' card. They are also paying regular local taxes. The scheme of rain water sewerage at Adyar and Coovam river water catchment area will affect the livelihood of the petitioners. The petitioners cannot be thrown out without proper rehabilitation. Thus, a direction be issued to the authorities not to interfere with their peaceful possession and enjoyment of their properties at Padikuppam Canal area, Gandhi Nagar, Anna Nagar west, Chennai.

3 In response to the notice, the second respondent has filed a counter affidavit, stating as under :

"7.I respectfully submit that the Corporation of Chennai, as a measure of provision of Resettlement and Rehabilitation (R&R) for Project Affected Families for social impacts, Resettlement Action Plan (RAP) has been drawn and approved by the Council of the Corporation of Chennai and the World Bank, wherein a sum of Rs.24.5 Crores have been provided as implementation budget cost. This has been uploaded and available in Corporation of Chennai's website. The R&R benefits includes the following:-

- (i) compensation for loss of structure for house and shops at market rate without depreciation
- (ii) subsistence grant for 180 days as per Mahatma Gandhi National Rural Employment Act
- (iii) a sum of Rs.10,000 as transportation cost as one time grant
- (iv) one time grant of a sum of Rs.5,000 for vulnerable Project Affected Families
- (v) alternative housing accommodation in the tenements constructed by the Tamil Nadu Slum Clearance Board and the share of beneficiary in the cost of tenements will be paid by the Corporation of Chennai.

The vulnerable section of Project Affected Families are those who belong to SC/ST and women headed families. These compensation packages are made available to the Project Affected Families in spite of the fact that they are not the owners of the land and only encroachers of the public land which shall be used for the larger public.

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10.I respectfully submit that Corporation of Chennai will not evict the Project Affected Families from their present residence without giving them the compensation packages as provided in the RAP. The Corporation of Chennai is also giving the Project Affected Families to choose any of the resettlement site in the tenements constructed by the Tamil Nadu Slum Clearance Board at Kannagi Nagar, Ezhil Nagar or at Thirumazhisai (Gudapakkam) at their option."

4 It is submitted by the learned counsels appearing for the respondents that all Project Affected Families are entitled to the benefits, which include compensation for loss of

structure for house and shops at the market rate without depreciation, subsistence grant for 180 days as per Mahatma Gandhi National Rural Employment Guarantee Act, transportation cost, one time grant of Rs.5000/- for vulnerable project affected families and alternative housing accommodation in the tenements constructed by the Tamil Nadu Slum Clearance Board. It is further submitted that the petitioners being Project Affected Families will not be evicted till they are granted the compensation packages, as aforestated.

5 We have heard the learned counsel appearing for the parties, perused the pleadings and documents appended thereto.

6 Incontrovertibly, the petitioners are likely to be evicted by the impending project. The authorities have taken a decision to grant them proper resettlement and rehabilitation package, which includes grant of alternative housing accommodation.

7 The learned counsel for the petitioners submits that a direction be issued not to evict the petitioners till proper alternative housing accommodation is provided with other benefits.

8 We have examined the facts. We are of the view that as per the counter affidavit of the second respondent, the petitioners are entitled to all benefits, as aforestated. Thus, the petitioners shall not be evicted till they are given complete benefits including alternative housing accommodation, under the Resettlement and Rehabilitation package (supra).

9 With the above observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

WEB COPY
Sub-Assistant Registrar

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To

1.The Commissioner,
Rain Water and Sewerage Department,
Chennai Corporation,
Chennai-3.

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Rain Water and Sewerage Department,
Chennai Corporation,
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3.The Zonal Officer,
7th Zone, Chennai Corporation,
Ambattur,
Chennai-53.

4.The District Collector,
Thiruvellore District,
Thiruvellore.

5.The Secretary,
Government of Tamilnadu,
Public Works Department,
Chennai-600 009.

+1 cc to Government pleader sr.59233

W.P. No.29028 of 2015

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