

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2015

CORAM:

THE HONOURABLE MR.SANJAY KISHAN KAUL, THE CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.34190 to 34192 of 2015
and
M.P. Nos.1 to 4 of 2015 (3 sets)

Ponnammal ...Petitioner in W.P.No.34190 of 2015

Periya Karuppan ...Petitioner in W.P.No.34191 of 2015

Mohammed Ali ...Petitioner in W.P.No.34192 of 2015

Versus

1.The Secretary to Government of Tamil Nadu
Revenue Department, Fort. St.George,
Chennai 600 009.

2.The District Collector,
Thiruvallore District,
Thiruvallore.

3.The District Revenue Officer,
Thiruvallore District Collector Office,
Thiruvallore.

4.The Tahsildar,
Ambathur Taluk,
Thiruvallore District.

5.The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai,
Chennai 600 005.

... Respondents in all WPs.

Petitions filed under Article 226 of the Constitution of India praying for the issue of a writ of Certiorarified Mandamus, calling for the records relating to the 2nd respondent proceeding in Na.Ka.No.13691/2015/Aa1 dated 06.10.2015, quash the same and direct the respondents to restitute Plots at S.No.1052/1 &2 forming part of the TNUDP Scheme in Station Road Korattur Village, Ambattur to the petitioner to the extent as per MMDA approved layout dated 3.2.1993 as it existed prior to the illegal demolition and grant appropriate damages to the petitioners.

For Petitioners : Mr.J.Saravanakumar

For Respondents : Mr.STS.Murthi
Government Pleader assisted by
Mr.V.R.Kamalanathan
Additional Government Pleader
Mr.V.Shanmughasundar
Government Advocate
for R.1 to R.4 in all WPs.
Mr.B.Kesavan for R.5 in all WPs.

O R D E R

(The Order of the Court was made by The Hon'ble The Chief Justice)

The petitioners have filed these writ petitions questioning the order passed by the District Collector, Thiruvallur dated 06.10.2015 and for a consequential direction to restitute the plots to the petitioners as per the lay out approved by the MMDA by order dated 03.02.1993. The impugned order has been passed by the District Collector, Thiruvallur, in exercise of his power as an appellate authority under Section 10 of the Tamil Nadu Land Encroachment Act, 1905. An order of eviction was passed by the Tahsildar, Ambattur dated 05.11.2014, against which the petitioners preferred an appeal to the District Collector, which was rejected by the impugned orders. It is the petitioners' say that the Slum Clearance Board applied to MMDA for sanction of lay out and the lay out plan was approved by the MMDA during the year 1993 and the plots were allotted to the petitioners by the Slum Clearance Board and a sum of Rs.140/- was received by the Board. The petitioners would state that they have put up

construction and have been granted electricity connection and they have other records to show that they are living in the said premises. The Tahsildar, Ambattur passed the order of eviction observing that under the TNUDP Scheme (Erikkarai Gandhi Nagar) implemented in Korattur Village S.No.959/Part Eri Poramboke extent of 1.212.84 Hectares and S.No.1052/1 Pattai 0.01.80 Hectares, allotments were issued only to 106 allottees and also a proposal was initiated in respect of 73 plots to form a TNUDP Scheme in S.No.1052 Pattai poramboke and subsequently, due to the objection raised by dwellers, the proposal was dropped and the scheme proposal was cancelled. Therefore, it was stated that the station road area mentioned in the writ petition is no way connected with the Tamil Nadu Slum Clearance Board and the claim made by them cannot be accepted and direction was issued to proceed with the eviction proceedings. This order passed by the Tahsildar directing to proceed with the eviction of encroachment was challenged by petitioners in W.P.No.3980 of 2015 and this Court by order dated 20.02.2015 disposed of the writ petition permitting the petitioners to avail the alternative remedy under the Act. Subsequently, one of the petitioners in the batch by name P.Periasamy filed a writ petition to forbear the respondent from evicting him from the property in question before disposing the appeal filed by him under Section 10 of the Tamil Nadu Land Encroachment Act. The said writ petition was disposed of by a Division Bench by order dated 25.02.2015, with a direction to consider the application for interim relief within a period of two weeks and consider the appeal petition within the statutory period prescribed under the provisions of law on merits and in accordance with law and directed status quo as obtained on the date of the order i.e., 25.02.2015 for a period of two weeks. It is thereafter, the appellate authority has heard the parties and passed the order, which is impugned in the writ petition.

2. From a reading of the impugned order, it is seen that the parties have been afforded an opportunity of hearing and the appellate authority while confirming the order of the original authority has recorded reasons. On a perusal of the reasons recorded, it is seen that the petitioners were under the misconception that the land were covered under a scheme of the Slum Clearance Board. Therefore, we do not propose to examine the correctness of the order as if acting as a second appellate authority, more so when the principles of natural justice have been complied with and the petitioners were afforded reasonable opportunity.

3. For the above reasons, the writ petitions stand dismissed. However, this will not prevent the petitioners from availing the revisional remedy provided under the provisions of the Tamil Nadu Land Encroachment Act, 1905, if they are so advised. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ksr

To

- 1.The Secretary to Government of Tamil Nadu
Revenue Department, Fort. St.George,
Chennai 600 009.
- 2.The District Collector,
Thiruvallore District,
Thiruvallore.
- 3.The District Revenue Officer,
Thiruvallore District Collector Office,
Thiruvallore.
- 4.The Tahsildar,
Ambathur Taluk,
Thiruvallore District.
- 5.The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai,
Chennai 600 005.

+1cc to Mr.B.Kesavan, Advocate, S.R.No.58746

+3cc's to Mr.J.Saravanakumar, Advocate, S.R.No.58714 to 58716

W.P.No.34190 to 34192 of 2015

EV(CO)

CA(04/11/2015)