

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M. VENUGOPAL

W.P. No.5004 of 2015 and M.P. No.1 of 2015

P. Periasamy

Petitioner

Vs.

1 The Collector
Thiruvallore District
Collector's Office
Thiruvallore

2 The Tahsildar
Ambattur Taluk
Chennai 600 053

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

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus, forbearing the respondents from in any manner evicting the petitioner from the property in Survey No.959 part and Survey No.1052 of Korattur Village pursuant to the order of the second respondent in ROC No.8669/2014/C1 dated 23.01.2015 before disposal of the appeal under Section 10 of the Land Encroachment Act, 1905, filed on 23.02.2015 before the first respondent.

For petitioner Mr. M. Jaikumar

For RR 1 & 2 Mr. P.S. Sivashanmugasundaram
Special Government Pleader

ORDER

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

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, takes notice for respondents 1 and 2. With the consent of the learned counsel for the petitioner and the learned Special Government Pleader, this writ petition is taken up for final disposal at the admission stage itself.

2 The facts of the case in nutshell, as culled out from the petitioner's affidavit are that he has been residing in Survey No.959 part and Survey No.1052 of Korattur Village which was allotted to him by the Tamil Nadu Slum Clearance Board. While so, notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (for short "the Act") was issued by the second respondent on 26.09.2014 which was put to challenge in W.P.No.32815 of 2014. The said writ petition was disposed of by order dated 12.12.2014 permitting the petitioner to submit his objections to the notice issued under Section 7 of the Act and by the said order, the Tahsildar was also directed to consider and pass orders on the petitioner's objections. Pursuant to the said order of this Court, though the petitioner had filed his reply on 14.12.2014, without giving an opportunity of hearing to him, the second respondent had passed an order of eviction dated 23.01.2015. The said eviction order was challenged in W.P. No.3980 of 2015. In pursuance of the interim order passed by this Court in the said writ petition, the petitioner has, challenging the order of eviction passed by the second respondent, filed an appeal on 23.02.2015, before the first respondent under Section 10 of the Act. Along with the appeal, the petitioner has also filed an application for stay under Section 10-B of the Act.

3 With the aforestated background, this writ petition has been filed seeking a writ of mandamus forbearing the respondents from evicting the petitioner from the property in question before the disposal of the appeal preferred by him on 23.02.2015.

4 Having regard to the conspectus of the case, as stated above, without going into the merits of the case, we are of the considered view that if an appeal is filed along with the application for interim relief, the officers are well advised to consider the application for interim relief, preferably within a period of two weeks.

5 Accordingly, we direct the first respondent to consider the petitioner's application for interim relief as early as possible, preferably, within a period of two weeks from today and also to consider the petitioner's appeal within the statutory period prescribed under the provisions of law, on its own merits and in accordance with law. There shall be an order of status quo as obtained today, for a period of two weeks.

6 The writ petition stands disposed of with the above direction and observation. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar
Dated:3.3.15

True Copy

Sub Assistant Registrar

To

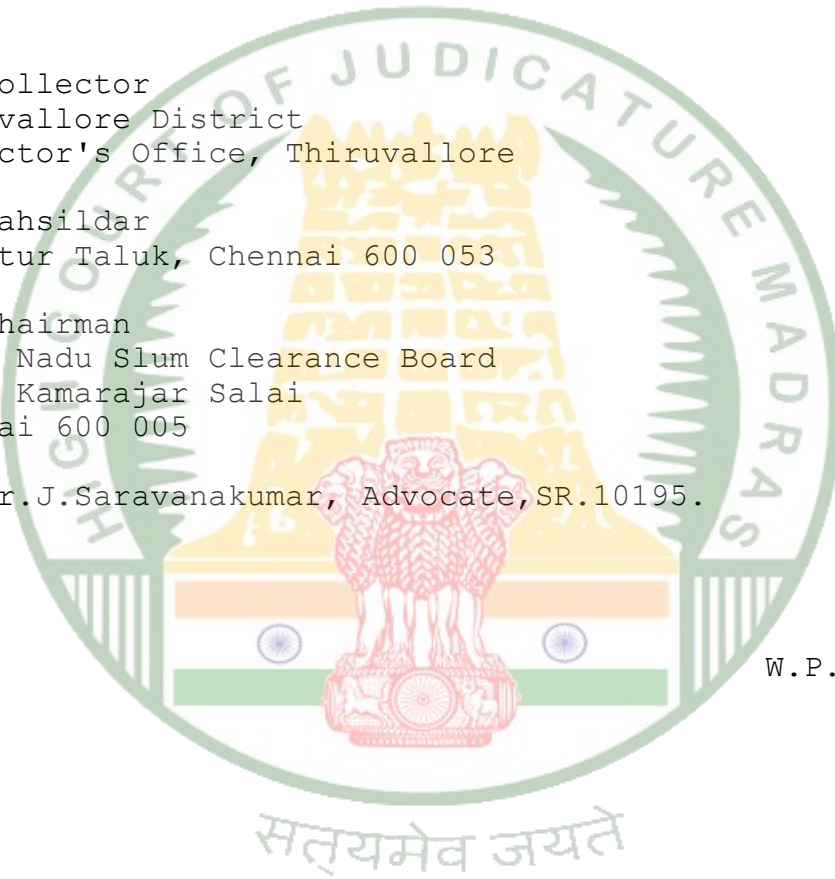
1 The Collector
Thiruvallore District
Collector's Office, Thiruvallore

2 The Tahsildar
Ambattur Taluk, Chennai 600 053

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

+1 cc to Mr.J.Saravanakumar, Advocate,SR.10195.

tej(co)
krd 9/3



W.P. No.5004 of 2015

WEB COPY