



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.01.2015

CORAM:

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
and

THE HONOURABLE MR. JUSTICE V.S.RAVI

W.P. (MD) No.18952 of 2014

and

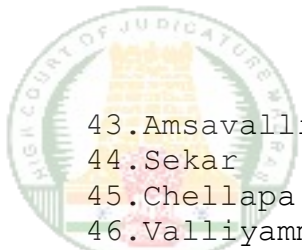
M.P. (MD) No.2 of 2014

and

Cont.P (MD) No.1400 of 2014

W.P. (MD) No.18952 of 2014:

- 1.V.Chandra Sekar
- 2.Natasan
- 3.T.Rasathi
- 4.Arumugam
- 5.Mariyayee
- 6.R.Karthikeyan
- 7.K.Gopalakrishnan
- 8.K.Govindaraj
- 9.V.Balasubramani
- 10.K.Saravanan
- 11.K.Nagendran
- 12.K.Vellammal
- 13.V.Mariappan
- 14.K.Raja
- 15.Mookayee
- 16.S.Shanmugam
- 17.Vadivel
- 18.M.Subramani
- 19.A.Kannusamy
- 20.J.Malliga
- 21.S.Meena
- 22.V.Chinna Kodi
- 23.G.Sekar
- 24.R.Rajendran
- 25.A.Mayakkannan
- 26.Angamuthu
- 27.M.Parvathi
- 28.M.Manimegalai
- 29.Kamala
- 30.J.sundari
- 31.M.Balu
- 32.A.Chinnaathal
- 33.S.Chandra
- 34.S.Palanivel
- 35.Alagu
- 36.B.Sundarraaj
- 37.Velu
- 38.Ambika
- 39.Murugesan
- 40.Ariunan
- 41.Kannan
- 42.Krishnan



43.Amsavalli
44.Sekar
45.Chellapa
46.Valliyammal
47.Govindaraj
48.Kala

...Petitioners

Vs.

1.The Commissioner,
Tiruchirapalli Corporation,
Tiruchirapalli.

2.The Assistant Commissioner,
Srirangam Zone,
Tiruchirapalli Corporation,
Tiruchirapalli.

3.The District Collector,
Tiruchirappalli District,
Tiruchirappalli.

4.The Tahsildhar,
Srirangam Taluk,
Tiruchirapalli District.

5.The Tamil Nadu Slum Clearance Board,
Chennai.

...Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the third respondent to provide alternative accommodation to the petitioners through the fifth respondent before removing their encroachment of houses made in Municipal Road situate in T.S.Nos.2252 and 2253, Indira Nagar, III Ward, Keelavasal, Indiranagar, Srirangam, Trichy - 6 in view of the recommendation of the fourth respondent dated 13.09.2014 to the third respondent by considering the representation of the petitioners dated 03.11.2014 within the period stipulated by this Court.

For Petitioners : Mr.A.Haja Mohideen

For Respondents : Mr.N.Manoharan, Spl.GP for R1 to R4
Mr.P.Mahendran for R5

Cont.P.(MD)No.1400 of 2014:
S.Periyakka

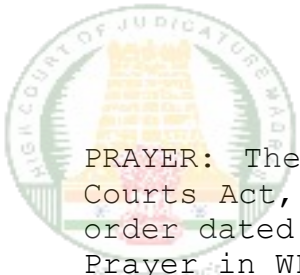
...Petitioner

Vs.

1.V.P.Thandapani,
The Commissioner,
Tiruchirapalli Corporation,
Tiruchirapalli.

2.Rengaraj,
The Assistant Commissioner,
Srirangam Zone,
Tiruchirapalli Corporation,
Tiruchirapalli.

...Respondents/Contemnors



PRAYER: The Contempt Petition is filed under Section 11 of Contempt of Courts Act, to punish the respondents for the wilfull disobedience of the order dated 03.07.2014 passed by this Court in W.P.(MD)No.7420 of 2011.

Prayer in WP(MD). 7420/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issuance of a WRIT OF MANDAMUS, to direct the Respondents 1 & 2 to remove the encroachments made by the Respondents 3 to 48 in the 41 feet Municipal Road situate at T.S.No.2243 & 2253, Block No.52, 53, Ward No.2 of Tiruchy Corporation.

For Petitioner : M/s.J.Maria Roseline

For Respondents : Mr.Madhusudanan

COMMON ORDER

(Order of this Court was made by S.TAMILVANAN,J.)

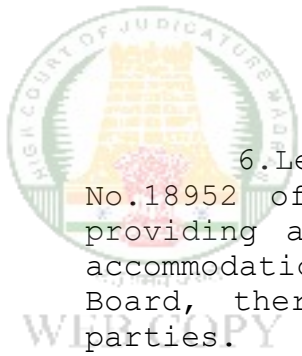
Heard the learned counsel appearing for the petitioners, learned Special Government Pleader appearing for the respondents 1 to 4 in W.P. (MD)No.18952 of 2014, learned standing counsel appearing for the fifth respondent and the learned counsel appearing for the petitioner in the Contempt Petition.

2.The Writ petition in W.P.(MD)No.7420 of 2011 was filed by the petitioner in the Contempt Petition (MD)No.1400 of 2014 seeking an order to direct the Commissioner, Tiruchirappalli Corporation and the Assistant Commissioner, Srirangam Zone, Tiruchirappalli Corporation to remove the encroachments made by the respondents 3 to 48 in the Writ petition in the 41 feet Municipal Road situate at T.S.Nos.2243 and 2253, Block Nos.52 and 53, Ward No.2 of Tiruchirappalli Corporation and pass appropriate orders.

3.As per the order dated 03.07.2014, a Division Bench of this Court, while allowing the Writ petition, directed the respondents 1 and 2 therein to evict the respondents 3 to 48 from the Municipal Road, situate in T.S.Nos.2243 and 2253 in Block Nos.52 and 53, Ward No.2 of Trichy Corporation. It is not in dispute that the said order passed by the Division Bench had reached its finality.

4.Subsequently, the present Writ petition in W.P.(MD)No.18952 of 2014 was filed by the petitioners, who are respondents 3 to 48 in the earlier Writ petition in W.P.(MD)No.7420 of 2011 without challenging the order dated 03.07.2014 passed by the Division Bench in W.P.(MD)No.7420 of 2011. In the present Writ petition, the petitioners seeking an order in the nature of Writ of Mandamus, directing the third respondent to provide alternative accommodation to them through the fifth respondent / Tamil Nadu Slum Clearance Board before removing the encroachments made on the Municipal Road.

5.After enquiry, the fifth respondent has come forward to accommodate 31 encroachers and as per the submission and the counter affidavit filed, the Tamil Nadu Slum Clearance Board, the Commissioner, Tiruchirappalli Corporation and the Government of Tamil Nadu would say that only 31 persons are eligible to be accommodated by the Tamil Nadu Slum Clearance Board and three persons have some other landed property and hence, they are not eligible to get any accommodation from the Tamil Nadu Slum Clearance Board.



6.Learned counsel appearing for the petitioners in W.P.(MD) No.18952 of 2014 submits that 14 persons have already been left out providing accommodation. However, to establish their right in getting accommodation under the fifth respondent / Tamil Nadu Slum Clearance Board, there is no legally acceptable evidence produced by the said parties.

7.As contended by the learned standing counsel appearing for the Tiruchirappalli Corporation, learned Special Government Pleader and also M/s.J.Maria Roseline, learned counsel appearing for the petitioner in the Contempt Petition and also the petitioner in W.P.(MD)No.7420 of 2011, it is crystal clear that the encroachment is objectionable, made on the road, which is detrimental to the rights of the general public.

8.Having gone through the material papers and the submissions made by both the learned counsel, we are of the view that only 31 persons are eligible to get accommodation under the fifth respondent, as stated by the respondents.

9.Learned counsel appearing for the fifth respondent / Tamil Nadu Slum Clearance Board submitted that keys are ready to hand over to the 31 persons since they are eligible to get accommodation under the fifth respondent / Tamil Nadu Slum Clearance Board. The other persons, who encroached the Municipal Road have not established their right that they are entitled to get accommodation under the Tamil Nadu Slum Clearance Board.

10.On the aforesaid circumstances, we direct the fifth respondent to hand over the keys to the eligible 31 persons on or before 04.02.2015 and it is also open to the eligible persons to approach the fifth respondent for getting keys and if they failed to approach the fifth respondent, it would not be a matter of right to raise any allegation against the fifth respondent.

11.The other petitioners in W.P.(MD)No.18952 of 2014 are directed to remove their belongings of movable or otherwise and clear the huts made on the said road. If it is not removed on or before 05.02.2015, it will be open to the Commissioner, Tiruchirappalli Corporation and the Government of Tamil Nadu to take appropriate action to remove the encroachment without providing further time, since the encroachment is made on the road, detrimental to the general public.

12.Post the matter on 09.02.2015 for reporting compliance.

13.The Writ petition and the contempt petition are ordered accordingly. No costs. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar



To

1.The Commissioner,
Tiruchirapalli Corporation,
Tiruchirapalli.

2.The Assistant Commissioner,
Srirangam Zone,
Tiruchirapalli Corporation,
Tiruchirapalli.

3.The District Collector,
Tiruchirappalli District,
Tiruchirappalli.

4.The Tahsildhar,
Srirangam Taluk,
Tiruchirapalli District.

5.The Chairman, Tamil Nadu Slum Clearance Board,
Chennai.

6.V.P.Thandapani,
The Commissioner,
Tiruchirapalli Corporation,
Tiruchirapalli.

7.Rengaraj,
The Assistant Commissioner,
Srirangam Zone,
Tiruchirapalli Corporation,
Tiruchirapalli.

+1cc to Mr.A.Hajamohideen, Advocate in SR.4667

+1cc to Mr.P.Mahendran, Advocate in SR.4085

+1cc to the Special Government Pleader in SR.4205

+1cc to Mr.J.Maria Roseline, Advocate in SR.4005

+1cc to Mr.Madhusudanan, Advocate in SR.4267

W.P. (MD) No.18952 of 2014
29.01.2015

nbg

pbk 05/02/2015 ::5p-13c: