

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2016

CORAM

The HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.16978 of 2014

Bharathi Block Kambar Street
Residents Welfare Association
rep. by its President, B.Annamalai
No.4, Kambar Street
Bharathi Block, Jafferkhanpet
Chennai - 600 083. ... Petitioner

vs.

1. The District Collector
Chennai District
Chennai-1.
2. The Corporation of Chennai
Rep. by its Commissioner
Chennai-3.
3. The Registrar of Co-operative Societies (Housing)
493, Annasalai, TNHB Building
Chennai-3.
4. The Sathyamoorthy Cooperative Housing Society
JJ-407, Old No.2, New No.15
S.V.Chidambaram Salai, Jawaghar Nagar
Jafferkhanpet, Chennai-83.
5. The Chairman
Tamilnadu Housing Board
Nandanam, Chennai-35.
6. Duraikannu
7. Raju
8. Paanjalai
9. Sreenivasan
10. Nagappan

11.E.Ramalingam
12.G.Subbiah
13.S.Damodharan
14.S.Subburaj
15.Malliga
16.Soundarapandiyan
17.Balaji
18.Subbiah

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing respondents 1 to 5 to remove the encroachments caused by respondents 6 to 16 in the land in S.No.33 (Old S.No.267/2 part and 3 part) Survey No.34/1 (Old S.No.267/2 Part and 3 part) in Block No.79 in Kodambakkam Village i.e. Kambar Street, Jafferkhanpet, Chennai-83 measuring 0.08.90.0 sq. meters and 0.41.01.5 sq. meter respectively by obtaining the consent of the 2nd respondent/Chennai Corporation of also direct the 2nd respondent to provide basic amenities to the members of the petitioner/ Association who are residents of the area such as roads, street lights, drinking water, drainage, etc.

For Petitioner : Mr.R.Thamaraiselvan
For Respondent : Mr.T.N.Rajagopalan
Special Govt. Pleader
for 1st respondent
Mr.R.Arun Mozhi
for 2nd respondent
Mr.Anandhamoorthy
for respondents 3 to 5

ORDER

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

The petitioner makes a two fold prayer:

- (a) for removal of encroachment in the land in S.No.33 (Old S.No.267/2 part and 3 part), Survey No.34/1 (Old S.No.267/2 Part and 3 part) in Block No.79 in Kodambakkam Village i.e. Kambar Street, Jafferkhanpet, Chennai-83 measuring 0.08.90.0 sq. meters and 0.41.01.5 sq. meter respectively, by respondents 6 to 16; and
- (b) for a direction to the second respondent/ Corporation of Chennai to provide civil amenities such as roads, streetlights, drinking water, drainage, etc.

2. It emerges from the pleadings that the area was developed by the Tamil Nadu Housing Board/fifth respondent. The stand of the Corporation is that the Board has not handed over the roads to the Chennai Corporation for maintenance and thus basic amenities could not be provided by the Chennai Corporation. On the other hand, the report filed by the Tahsildar in earlier writ proceedings, being W.P.No.21409 of 2009, states that though encroachments have been found, the land belongs to the Chennai Corporation and the Housing Board and they would have to remove the encroachments.

3. We are of the view that the two authorities, being the Corporation and the Tamil Nadu Housing Board, seek to blame each other for non development of facilities on account of alleged non handing over of the area and also shift the burden as to who has to remove the encroachment. We, thus, direct respondents 2 and 5 to jointly take a decision in respect of the encroachment removal action as also for handing over of the land within a maximum period of one month from the date of receipt of the order.

4. Dependant on the decision, the authority concerned will also take steps to remove encroachments in accordance with law after notice to all concerned and conclude the same within a period of two months thereafter.

5. The petition, accordingly, stands disposed of. No costs.

List for compliance on 3.3.2017.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To:

The District Collector
Chennai District
Chennai-1.

2. The Commissioner
The Corporation of Chennai
Chennai-3.
3. The Registrar of Co-operative Societies (Housing)
493, Annasalai, TNHB Building
Chennai-3.
4. The Chairman
Tamilnadu Housing Board
Nandanam, Chennai-35.
- 5 The Section officer, Writ Section, High Court, Madras

+1cc to Mr.V. Anandha Murthy, Advocate, S.R.No.68135
+1cc to the Government Pleader, S.R.No.68491

ksj (CO)
md(30/11/2016)

W.P.No.16978 of 2014



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