

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2016

CORAM:

THE HONOURABLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.12623, 12624, 11973, 11980, 11982, 11999, 12000,
and 12119 to 12123 of 2010

and
W.P.Nos.11762 to 11767 of 2010, 11942 to 11945 of 2010, 11993 to
11998 of 2010
and 12016 to 12020 of 2010

R.Baktavachalam ... Petitioner in W.P.12623 of 2010

The Chairman,
Annai Youth Welfare Society,
Chennai 61. ... Petitioner in W.P.12624 of 2010

B.Shanthi ... Petitioner in W.P.11973 of 2010
S.Rajalingam ... Petitioner in W.P.11980 of 2010
Doss ... Petitioner in W.P.11982 of 2010
S.Muthuraj ... Petitioner in W.P.11999 of 2010
Pushpa ... Petitioner in W.P.12000 of 2010
S.Sathyanarayanan ... Petitioner in W.P.12119 of 2010
N.Ragavapillai ... Petitioner in W.P.12120 of 2010
Sundaram ... Petitioner in W.P.12121 of 2010
P.Gopal ... Petitioner in W.P.12122 of 2010
Rajeswari ... Petitioner in W.P.12123 of 2010
Damodharan ... Petitioner in W.P.11762 of 2010
Mani ... Petitioner in W.P.11763 of 2010
C.Govindaraj ... Petitioner in W.P.11764 of 2010
G.Jaisankar ... Petitioner in W.P.11765 of 2010
K.Sivaramakrishnan ... Petitioner in W.P.11766 of 2010
E.Kumar ... Petitioner in W.P.11767 of 2010
V.Parimala Devi ... Petitioner in W.P.11942 of 2010
Senthil Kumar ... Petitioner in W.P.11943 of 2010
P.Kalavathy ... Petitioner in W.P.11944 of 2010
D.Gunasekaran ... Petitioner in W.P.11945 of 2010
G.Banumathy ... Petitioner in W.P.11993 of 2010
K.Kumar ... Petitioner in W.P.11994 of 2010
Rani ... Petitioner in W.P.11995 of 2010
M.Manickam ... Petitioner in W.P.11996 of 2010
Thangavel ... Petitioner in W.P.11997 of 2010

V.S.Jeyamani
R.Venkatasamy
E.Jothi Ramalingam
B.Revathy
K.Babu
M.Karunanidhi

... Petitioner in W.P.11998 of 2010
... Petitioner in W.P.12016 of 2010
... Petitioner in W.P.12017 of 2010
... Petitioner in W.P.12018 of 2010
... Petitioner in W.P.12019 of 2010
... Petitioner in W.P.12020 of 2010

Versus

Tamil Nadu slum Clearance Board
rep.by its
Chairman and Managing Director
NO.5 Kamarajar Salai, Chennai-5

...1st Respondent in WP.12623/10,
12624/10, 11973/10, 11980/10, 11982/10,
11999/10, 12000/10, 12119 to 12123/10,
11762 to 11767/10, 11942 to 11945/10,
11993 to 11998/10, 12016 to 12020/10

The District Collector
Kancheepuram

...2nd Respondent in WP.12623/10
11973/10, 11980/10, 11982/10,
11999/10, 12000/10, 12119 to 12123/10, 11762 to
11767/10, 11942 to 11945/10, 11993
to 11998/10, 12016 to 12020/10

The Executive Engineer
Tamil Nadu Slum Clearance Board,
Division-2, Semmancheri
Chennai-119

...3rd Respondent in WP.12623/10,
11973/10, 11980/10, 11982/10,
11999/10, 12000/10, 12119 to
12123/10, 11762 to 11767/10,
11942 to 11945/10, 11993 to
11998/10, 12016 to 12020/10

The Assistant Secretary(Plots)
Slum Clearance Board,
Chennai-5

...2nd Respondent in WP.12624/10

The Executive Engineer,
Director No.II No.8
Slum Clearance Board,
K.K.Nagar, Chennai-78

...3rd Respondent in WP.12624/10

Petitions filed under Article 226 of the Constitution of India praying for the issue of a writ of Certiorari, to call for the records of the 3rd respondent dated 03.06.2010 passed in Ka.No.A5/133/Div-2/Ku.Pa.Ma.Va and quash the same as illegal.

For Petitioners : Mr.C.K.Logadoss in W.P.12624 of 2010
Mr.R.Subramanian
for Mr.M.Sudhakar in all WPs.
(Except W.P.12624 of 2010)

For Respondents : Mr.S.T.S.Murthi
Special Government Pleader
assisted by Mr.V.R.Kamalanathan
Additional Government Pleader for R2
Mr.I.Satheesh
for Slum Clearance Board (R1 & R3)
in all WPs

C O M M O N O R D E R

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

The petitioners have assailed the identical impugned notices issued by the Tamilnadu Slum Clearance Board/respondent in respect of S.No.90, Karunanidhi Nagar, Ullagaram, Chennai-600 061, where 500 house sites are alleged to be existing.

2. The issue at hand has a chequered history. There were proceedings even filed earlier for eviction of the unauthorised persons in W.P.No.5625 of 2005, in which directions were passed by the Division Bench on 08.03.2010. In the said writ petition, the Tamil Nadu Slum Clearance Board and the Municipal Corporation authorities of Alandur both were parties. The Court directed that steps should be taken for eviction in accordance with law, pursuant to which the impugned notices are stated to have been issued.

3. The substratum of the legal plea raised by the petitioner is that the land does not even vest with the respondent/Board as per its own stand, but was proposed to be handed over to the Board. The land is now stated to be vested with the State Government. This position is once again accepted before us.

4. There is also a controversy as to the categorisation of the land - whether it is a water area or not, as per the current land revenue records. If it is a water area and continues to be so, then on that ground alone, there cannot be any encroachment in view of the Full Bench Judgement of this Court in T.K.Shanmugam vs. State of Tamilnadu and others reported in (2015(5) LW 397). If it is otherwise, then the authorities concerned would have to take action in accordance with law to

clear the area or take any other steps in accordance with law. It also appears that at some stage, it was stated that this land was utilized for School.

5. We are thus of the view that the impugned notices are liable to be quashed. Ordered accordingly.

6. We simultaneously issue directions to the District Collector, Chennai, who is supposed to have jurisdiction in the area, to carry out an inspection and verify, as per the revenue records, what is the purpose of use of the land, and thereafter, take action in accordance with law, dependant on the result thereof.

7. The aforesaid exercise be undertaken within a maximum period of four months of the receipt of the order by the District Collector, Chennai.

8. The writ petitions are allowed with the aforesaid directions, leaving the parties to bear their own costs. Consequently, connected miscellaneous petitions are closed.

Copy of the order be sent to the District Collector, Chennai as well as to the learned Government Pleader within three days.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ksr

To

1.The Chairman and Managing Director,
Tamilnadu Slum Clearance Board,
5, Kamarajar Salai,
Chennai 5.

2.The District Collector,
Kanchipuram.

3.The Executive Engineer,
Tamilnadu Slum Clearance Board,
Division -2, Semmancheri,
Chennai 119.

4.The Assistant Secretary(Plots)
Slum Clearance Board,
Chennai-5

5.The Executive Engineer,
Director No.II No.8
Slum Clearance Board,
K.K.Nagar, Chennai-78.

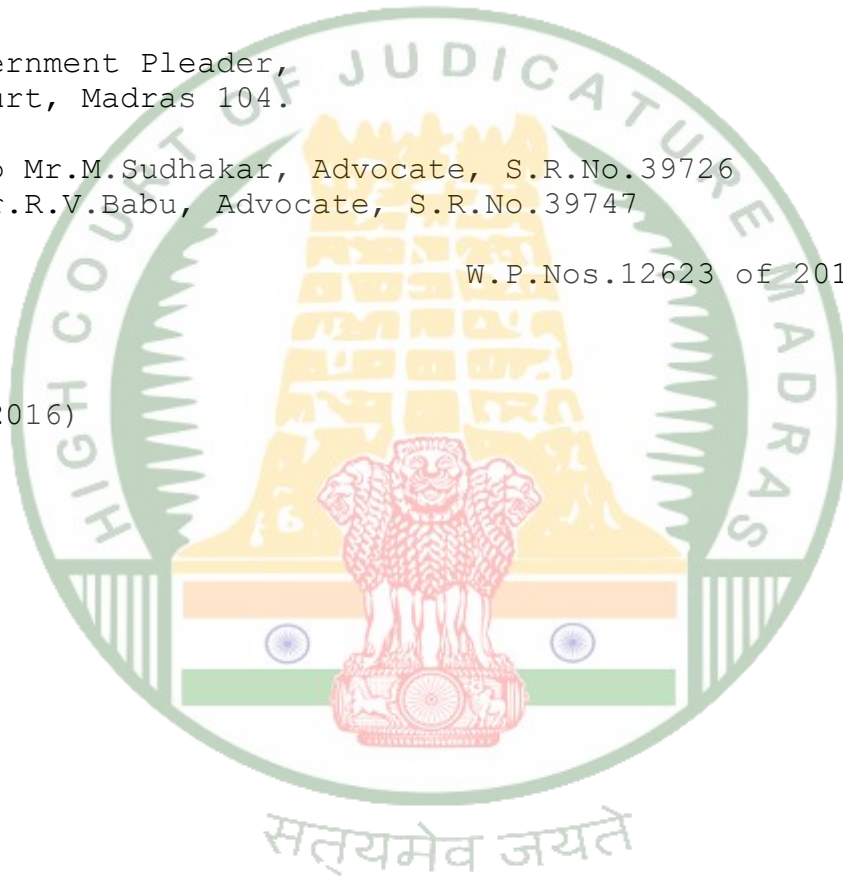
6.The District Collector,
Chennai.

7.The Government Pleader,
High Court, Madras 104.

+10cc's to Mr.M.Sudhakar, Advocate, S.R.No.39726
+1cc to Mr.R.V.Babu, Advocate, S.R.No.39747

W.P.Nos.12623 of 2010 and Batch

SV(CO)
CA(29/07/2016)



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