

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

Review Application (Writ) Nos.49 to 51 of 2006
and W.P.No.26435 of 2013

Review Application (Writ) Nos.49 to 51 of 2006:

Nehru Nagar (Glass Factory) Kudi Vazhvor
Podhu Nala Sangam
rep. by its President, N.Sundaramurthy
Nehru Nagar, Thiruvottityur
Chennai – 600 019.

.. Applicant
in Rev.A.No.49/2006

Thiruvotriyur Kamaraj Nagar Kudisai
Vazhvor Seva Sangam
rep. by its President, A.K.S.Gandhi
Kamaraj Nagar, Thiruvottityur
Chennai – 600 019.

.. Applicant
in Rev.A.No.50/2006

Thiruvotriyur Gandhiji Nagar Kudiiruppor
Nala Sangam
rep. by its President, Kothandaraman
Gandhiji Nagar, Thiruvottityur
Chennai – 600 019.

.. Applicant
in Rev.A.No.51/2006

Vs.

1. G.R.A.Jayaraman

2. The District Collector
Tiruvallur District.

3. The Tahsildar
Ambattur Taluk Office
Ambattur, Chennai – 600 050.

4. The Commissioner
Tiruvottriyur Municipality
Tiruvottriyur, Chennai – 600 019.

.. Respondents
1 to 4 in all review
applications

5. Ashok Leyland Employees Cooperative
Industrial Housing Society Ltd.
rep. by Special Officer
(impleaded by order dated
14.12.2016 in M.P.Nos.5 of 2006
- 2 petitions)

.. 5th respondent
in Rev.A.Nos.49 and
50 of 2006

PRAYER: To review the order dated 20.12.2005 passed in
W.P.No.38717 of 2005.

W.P.No.26435 of 2013:

Ashok Leyland Employees
Cooperative Industrial Housing Society Ltd.
rep. by its President
No.101, Sir A Ramasamy Mudaliar Nagar
Tiruvottriyur, Chennai – 19.

.. Petitioner

Vs.

1. The Secretary to Government
Government of Tamilnadu
RD & IA Department
Fort St. George, Chennai-9.

2. The Collector of Tiruvallur
Tiruvallur.

3. The Commissioner
Corporation of Chennai
Chennai.
4. The Chairman
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Maligai
Gandhi Irwin Road
Chennai-8.
5. K.Sudhakar
6. P.Rajagopal
7. R.Chandrasekharan
8. V.Ranganathan
9. M.Muthu
- 10.J.Kothandaraman
- 11.R.Krishnan
- 12.F.Vincent
- 13.Thiruvotriyur Kamaraj Nagar Kudisai
Vazhvor Seva Sangam
rep. by its President, M.Muthu
Kamarajar Nagar
Tiruvottiyur, Chennai – 19.
(R-13 impleaded as per order in
MP No.1/2014 dated 04/04/2014)
- 14.The Chairman
Tamil Nadu Slum Clearance Board
Kamarajar Salai, Chennai – 600 005. .. Respondents
(R-14 suo motu impleaded by the
order dated 14.12.2016 in
W.P.No.26435 of 2013)

For Review Applicants : Mr.R.Munusamy
in Rev.A.Nos.49 to 51
of 2016 and
respondents 5, 7, 9 to
11 and 13

For Respondents 2 and 3 in the review applications and respondents 1 and 2 in W.P.No.26435 of 2013 : Mr.T.N.Rajagopalan
Special Govt. Pleader

For respondents 1 and 4 in review applications and respondents 6, 8, 12 and 14 in W.P.No.26435 of 2013 : No appearance

For 5th respondent in Review Applications and petitioner in W.P.No.26435 of 2013 : Mr.S.N.Ravichandran

For 3rd respondent in W.P.No.26435 of 2013 : Mr.C.Ravichandran

For 4th respondent in W.P.No.26435 of 2013 : Mr.C.Johnson

COMMON ORDER

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

One R.A.Jayaraman filed W.P.No.38717 of 2005 seeking a direction against the District Administration and the Tiruvottiyur Municipality for removal of encroachments made in the scheme road at Sadayankuppam Battai, Thiruvottiyur (now called as Gandhi

Nagar) connecting the areas, namely Annai Kangammal Nagar, Kalaingar Nagar, Ashok Leyland Quarters and Balakrishnan Nagar from 200 feet main road (Basin Bridge to Ennore).

2. The said writ petition came to be disposed of on 20.12.2005 with a direction to the respondents to remove the alleged encroachments, if any, and submit a report with regard to the action taken before the Registrar General, Madras High Court within three months from the date of receipt of a copy of that order.

3. The review applications have been filed by Nehru Nagar (Glass Factory) Kudi Vazhvor Podhu Nala Sangam, Thiruvotriyur Kamaraj Nagar Kudisai Vazhvor Seva Sangam and Thiruvotriyur Gandhiji Nagar Kudiyiruppor Nala Sangam soon after notices were served under Section 3(1) of the Tamil Nadu Act, 1905 seeking to impose cess or evict them from the property land/structure/super structure under Section 6 of the said Act.

4. It is the case of the review applicant in Review Application No.49 of 2006 that the colony has an approved layout duly approved by the Chennai Metropolitan Development Authority and

that the land was taken over by the Tamil Nadu Slum Clearance Board, whereby plots were allotted on payment of costs in the year 1993 and some of the allottees are stated to have paid the entire cost of the plot to the Board (*The learned counsel for the review applicant states that subsequently, the remaining people have also paid costs and obtained patta, fact which can be verified by the authorities*).

5. Insofar as Review Application Nos.50 and 51 are concerned, the applicants have been requesting respondents 2 to 4 in the review applications and the Tamil Nadu Slum Clearance Board for issuance of allotment order and patta and it is their plea that they are paying costs of the plots to the Tamil Nadu Slum Clearance Board and all the buildings in the locality have been assessed to property tax and they are paying necessary house tax to the Municipality.

6. The sum and substance of the claim of the review applicants is that they are not encroachers who can be evicted, but are occupants in pursuance of the patta issued in few cases and the costs being paid to the Tamil Nadu Slum Clearance Board in other

cases.

7. A second writ petition has been filed being W.P.No.26435 of 2013 by the Ashok Leyland Employees Cooperative Industrial Housing Society Ltd., once again seeking the same relief except that the survey numbers have been specifically mentioned. The review applicant in Review Application No.50 of 2006 was impleaded as 13th respondent in this writ petition subsequently.

8. In this writ petition, a reference has been made to a counter affidavit filed by the Senior Planner of the Madras Metropolitan Development Authority in W.P.No.2360 of 1989 to the effect that the area has been declared as slum under the Tamil Nadu Slum Clearance Board Act. The Slum Improvements Programme layout application was submitted to the said deponent's office but was returned unapproved in August, 1991 by the then Madras Metropolitan Development Authority for the reason that the slum was located in government battai land, thereby blocking the access to the adjoining private land. The layout was, however, subsequently approved in favour of the Tamil Nadu Slum Clearance Board and thus the Madras Metropolitan Development Authority

would not have any objection in granting planning permission and the layout was approved in 1991.

9. The said writ petition (W.P.No.2360 of 1989) was also filed by the same petitioner as in W.P.No.26435 of 2013 and orders were passed on 25.3.1998 noticing that around the colony of the petitioner several encroachments had taken place radically affecting the pathway of most of the inmates of the colony. A direction was issued to the Commissioner, Thiruvottiyur Municipality to examine the issue on hand. It appears that this has also not resolved the controversy.

10. It appears from the pleadings on record that there has to be a collective application of mind by the Thiruvottiyur Corporation (*which has taken over the Municipality*), the Collector of Tiruvallur, the Chennai Metropolitan Development Authority (*successor to the Madras Metropolitan Development Authority*) and the Tamil Nadu Slum Clearance Board. The Tamil Nadu Slum Clearance Board is not a party and we, thus, implead it as a respondent in the present writ petition.

11. The issue at hand is whether in the planning process any portion is being occupied which should be maintained as a road for access to the approved habitants and whether their rights have been prejudiced in any manner by the regularization of the encroachments and issuance of patta?

12. We direct the authorities concerned to sort out the problem finally and give four months time for the said purpose.

13. The order passed in W.P.No.38717 of 2005 on 20.12.2005 would thus stand modified to the aforesaid extent.

The review applications and the writ petition stand disposed of accordingly. No costs. Consequently, M.P.No.1 of 2013 in W.P.No.26435 of 2013 is closed.

(S.K.K., C.J.) (M.S., J.)
14.12.2016

Index : No
Internet : Yes
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To:

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THE HON'BLE CHIEF JUSTICE
AND
M.SUNDAR,J.

(sasi)

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