

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.06.2017

CORAM:

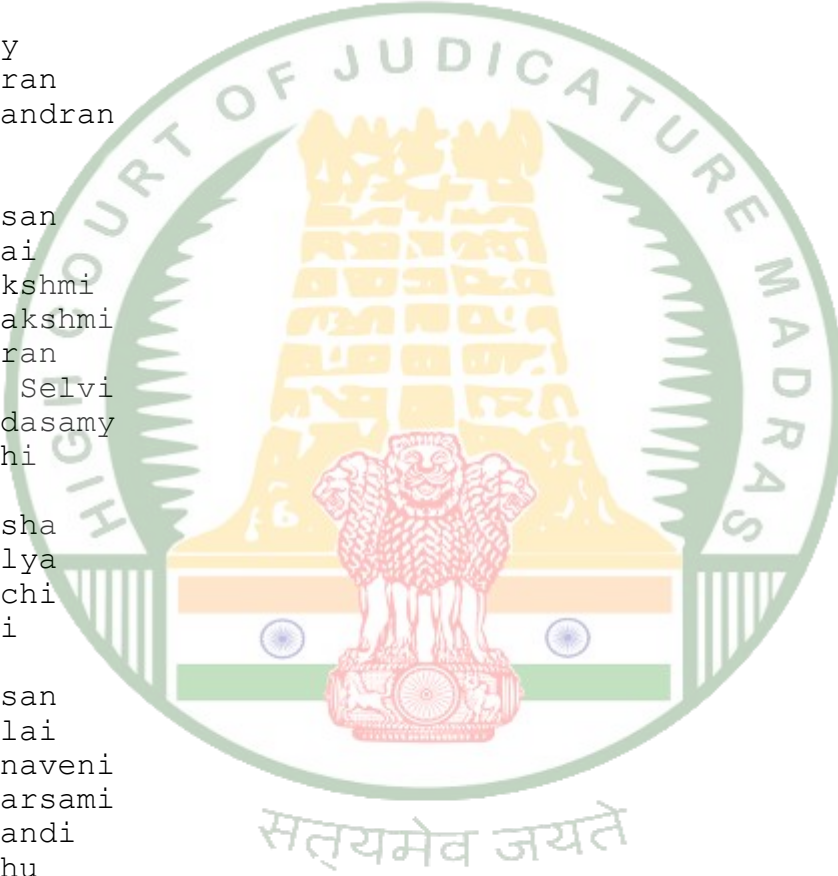
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.No.8896/2017 & WMP.No.9810/2017

- 1.K.Moorthy
- 2.M.Mahendran
- 3.K.Ravichandran
- 4.G.Muthu
- 5.V.Suresh
- 6.M.Murugesan
- 7.P.Elumalai
- 8.S.Jayalakshmi
- 9.K.Dhanalakshmi
- 10.P.Sankaran
- 11.K.Kalai Selvi
- 12.M.Govindasamy
- 13.K.Revathi
- 14.P.Ravi
- 15.M.Shirisha
- 16.T.Gousalya
- 17.M.Kamatchi
- 18.K.Kumari
- 19.R.Ravi
- 20.P.Amerasan
- 21.G.Elumalai
- 22.G.Krishnaveni
- 23.K.Azhagarsami
- 24.D.Jayapandi
- 25.Kodimuthu
- 26.R.Poomayil
- 27.J.Jayaprakash
- 28.M.Kumaravel
- 29.B.Srinivsan
- 30.G.Ellammal
- 31.S.Selvi
- 32.S.Selvi
- 33.B.Elumalai



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Petitioners

Vs

1. The Secretary
Government of Tamil Nadu
Department of Housing
Village Development,
Slum Clearance Board, Rural
and Urban Development
Secretariat, Chennai-9.
2. The District Collector
Kancheepuram District.
3. The Tahsildar
Taluk Office, Chengalpattu [TK]
Kancheepuram District.
4. The Executive Engineer
Zone-6, Tamil Nadu Slum Clearance Board
No.130, RK Math Road,
Mylapore, Chennai-4.
5. The Commissioner
Municipality of Maraimalai Nagar
Chengalpattu Taluk
Kancheepuram District.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus to direct the respondents 1 and 4 to either issue patta to the petitioners those who are living in the existing place S.No.71/1, Thailavaram Village, Potheri, Chengalpattu Taluk and Kancheepuram District or to provide alternative accommodation to the petitioners in particularly forth coming Multistoreyed tenement which would be constructed by the 1st and 4th respondents in S.No.71/1, Thailavaram village, Potheri, Chengalpattu Taluk and Kancheepuram District and to forbear the respondents from alienating the burial and burning grounds to any other purpose which exist in S.No.71, Bhuvaneswari Amman Nagar, Thailavaram Village, Potheri, Chengalpattu Taluk and Kancheepuram District.

For Petitioner : Mr.P.Vijendran

For RR 1 to 3 : Mr.R.Vijayakumar, AGP

For R4 : Mr.S.Prabhu

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ petition is taken up for final disposal.

2. The petitioners claim that they are living in S.No.71/1, Thailavaram Village, Potheri, Chengalpattu Taluk, Kancheepuram District and they prayed for an alternate accommodation in a multi-storeyed tenements to be constructed by the respondents 1 and 4 in S.No.71/1 and also to forbear them from alienating the burial and burning grounds to any other purpose which exist in S.No.71, Bhuvaneswari Amman Nagar, Thailavaram Village, Potheri, Chengalpattu Taluk and Kancheepuram District.

3. The writ petition was entertained and initially, an interim order of status quo was granted and thereafter, the 3rd respondent has filed a counter affidavit. When the writ petition was listed on 07.06.2017, the learned counsel for the petitioner prayed for time to get specific instructions in respect of two aspects which have been stated in the above cited order.

4. The 3rd respondent, in the counter affidavit would state that the claim made by the petitioners that the lands in S.No.71/1 at No.52, Thailavaram Village, Potheri, Chengalpattu Taluk, Kancheepuram District, are not patta lands and the said lands are Government Poramboke lands under the classification "Grazing Ground Poramboke [Meikal Poramboke]". It is further stated by the 3rd respondent that the writ petitioners are encroachers of the Government Poramboke lands classified as Grazing Ground Poramboke and Meikal Poramboke and as such, they are liable to be evicted at any cost in order to protect the Government property and necessary proceedings have been initiated under the provisions of the Tamil Nadu Land Encroachment Act, 1905.

5. Mr.P.Vijendran, learned counsel for the petitioners would submit that the petitioner are residing in the above said place for nearly about 40 years and they are eking out their livelihood by getting employment in the nearby places and also admitted their wards in Schools and despite the said fact, not even basic amenities have been provided by the Local Body and though very many representations have been submitted, no response is forthcoming and would pray that in the event of any tenements constructed by the Tamil Nadu Slum Clearance Board in S.No.71/1, Thailavaram Village, the petitioners may be given accommodation.

6. Per contra, Mr.S.Prabhu, learned Standing Counsel appearing for the Tamil Nadu Slum Clearance Board has drawn the attention of this Court to the counter affidavit filed by the 4th respondent and as per the counter affidavit of the 4th respondent, the Tamil Nadu Slum Clearance Board has proposed a housing scheme to construct 480 tenements for the benefit of the economically weaker section under the scheme of "Pradan Mandri Awas Yojana" [PMAY] and the construction is yet to be started and necessity also arose to evict the encroachments in order to commence the construction work and it is programmed to evict the encroachers with the help of the Revenue Department and the Police Department. The counter affidavit of the 4th respondent would also state that after construction, a plan has been mooted to allot slum tenements to the eligible families and those who prefer houses at the project site [Thailavaram], can get the same by paying tenement cost to be fixed for other beneficiaries.

7. In response to the said submission, the learned counsel for the petitioners would submit that for the purpose of putting up construction in the above said site, the petitioners are willing to go out ; but, however they may be given alternate accommodation at Perumbakkam tenements.

8. This Court has considered the rival submissions and also perused the materials placed before it.

9. It is the stand of the 3rd respondent that the petitioners are the land encroachers and the 4th respondent, took a stand that as per the Enter Upon Permission issued by the Tamil Nadu Slum Clearance Board in G.O.[Ms].No.312, Revenue Department, the lands were taken possession on 09.07.2010 from the Revenue Department and at that time, there were only seven families residing there and no burial ground was also there at the time of taking up of the land and during the course of time, some persons have trespassed and committed encroachment by creating tiny, semi pucca asbestos structures and residing there.

10. In the light of the disputed facts, it is open to the petitioners to submit representations to the 4th respondent with relevant documents as to their long possession and enjoyment, for the purpose of getting free alternate accommodation at Perumbakkam tenements which we are informed are ready to occupy and as and when representations are received, the 4th respondent shall consider the same on merits and in accordance with law and pass orders as expeditiously as possible and not later than eight weeks from the date of receipt of a copy of this order and it is also open to the petitioners to submit applications after the construction of the slum tenements in S.No.71/1 at Thailavaram village, Potheri, Chengalpattu Taluk, Kancheepuram District is completed, but this will be on payment of price

fixed unlike Perumbakka. All such applications shall be in a prescribed format along with necessary documents to the 1st respondent, who on receipt of the same, shall process the same subject to the fulfillment of the requirements and if the papers are otherwise in order, shall forward the same to the 2nd respondent, who in turn, shall forward the same to the 4th respondent for taking appropriate and necessary action.

11. The writ petition stands disposed of with the above observations and consequently, the interim order of status quo is vacated. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

1. The Secretary
Government of Tamil Nadu
Department of Housing
Village Development,
Slum Clearance Board, Rural
and Urban Development
Secretariat, Chennai-9.
2. The District Collector
Kancheepuram District.
3. The Tahsildar
Taluk Office, Chengalpattu [TK]
Kancheepuram District.
4. The Executive Engineer
Zone-6, Tamil Nadu Slum Clearance Board
No.130, RK Math Road,
Mylapore, Chennai-4.

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5. The Commissioner
Municipality of Maraimalai Nagar
Chengalpattu Taluk
Kancheepuram District.

+1cc to Mr.S.Prabhu, Advocate, S.R.No.43639
+1cc to Mr.P.Vijendran, Advocate, S.R.No.43192
+1cc to the Government Pleader, S.R.No.43088

WP.No.8896 of 2017

CS/13/07/17



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