

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2017

CORAM :

The Hon'ble Ms.INDIRA BANERJEE, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.SUNDAR

W.P.No.14244 of 2016

P.Mohan

.. Petitioner

-vs-

1.The Chief Executive Officer,
Officer of the Cantonment Board,
North Parade Road,
St. Thomas Mount, Chennai 600 016.

2.Vincent Paul
3.John Bosco
4.Pauti Pavulin
5.Regina Gunasekar
6.Fathima David

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 1st respondent to consider the petitioner representation dated 25.01.2016 to remove the encroachment in Survey No.162, Cantonment Old Pallavaram Village, now known as Cantonment Pallavaram Village, Tambaram Taluk, now at Alandur Taluk.

For Petitioner : Mr.Vijay Narayan, Sr. Counsel
for Mr.S.Kumaresan

For Respondents : Mr.C.Mohan
for M/s.King and Partridge for R-1

O R D E R

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

In this writ petition, the petitioner has sought orders on the first respondent to consider the representation of the petitioner dated 25.01.2016 and to remove the encroachments in S.No.162, Cantonment Old Pallavaram Village, now known as Cantonment Pallavaram Village, Tambaram Taluk, now at Alandur Taluk and for other consequential orders or directions.

2.The facts giving rise to the writ petition are stated very briefly hereinafter:

One Dr.Hari and Mrs.Susma Hari mortgaged a property, i.e. vacant land measuring 3280 sq. ft. in Depo Line Plot No.27, situate at Cantonment Old Pallavaram Village, now known as Cantonment Pallavaram Village, Tambaram Taluk, comprised in Old Survey No.161, presently sub-divided as S.No.161/1B, in favour of Standard Chartered Bank.

2.1.Standard Chartered Bank assigned the mortgage in favour of Assets Reconstruction Company of India Limited, hereinafter referred to as 'ARCIL'.

2.2.ARCIL initiated proceedings against the said Dr.Hari and Mrs.Susma Hari under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as 'Sarfaesi Act'.

2.3.The property was put to auction on or about 16.02.2015. The petitioner purchased the property through auction sale. The petitioner has access to the property from G.S.T. Road in S.No.162, which is Cantonment poramboke land, which was encroached by respondent Nos.2 to 6. The petitioner has been making representations to the first respondent to remove the encroachments obstructing the pathway from G.S.T. Road.

3.Learned counsel appearing on behalf of respondent No.1 submits that the petitioner bought the property in question on 'as is where is' basis, knowing fully well that there were encroachments in the adjacent/access land.

3.1.Be that as it may, proceedings have been initiated against the encroachers under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. It appears that appeals preferred under Public Premises (Eviction of Unauthorised Occupants) Act, 1971, are pending in the Court of the Principal District Judge, Chengalpattu. The following appeals are pending:

S.No.	Name of the encroacher	Date of Notice issued under S.4(2) of the Public Premises Act, 1971	Date of Notice issued under S.5(1) of the Public Premises Act, 1971	Appeal preferred under Public Premises Act, 1971
1.	Vincent Paul - 2 nd Respondent	12.8.2016, 192.12 sq.ft.	29.11.2016	PPCMA No.2 of 2017

S.No.	Name of the encroacher	Date of Notice issued under S.4(2) of the Public Premises Act, 1971	Date of Notice issued under S.5(1) of the Public Premises Act, 1971	Appeal preferred under Public Premises Act, 1971
2.	Vincent Paul - 2 nd Respondent	12.8.2016, 141.37 sq.ft.	29.11.2016	PPCMA No.2 of 2017
3.	John Bosco - 3 rd Respondent	12.8.2016, 742.50 sq. ft., along with 999.60 sq.ft for passage	29.11.2016	PPCMA No.6 of 2017
4.	John Bosco - 3 rd Respondent	12.8.2016, 14.89 sq.ft.	29.11.2016	PPCMA No.6 of 2017
5.	Pauti Pavulin - 4 th Respondent	12.8.2016, 180 sq. ft. along with 999.60 sq. ft. for passage	29.11.2016	PPCMA No.5 of 2017
6.	Pauti Pavulin - 4 th Respondent	12.8.2016, 57.75 sq. ft.	29.11.2016	PPCMA No.5 of 2017
7.	Regina Gunasekar	12.8.2016, 180 sq. ft. along with 999.60 sq. ft. for passage	29.11.2016	PPCMA No.4 of 2017
8.	Fathima David - 6 th Respondent	12.8.2016, 568.87 sq. ft. along with 999.60 sq. ft. for passage	29.11.2016	PPCMA No.3 of 2017
9.	Fathima David - 6 th Respondent	12.8.2016, 209.62 sq. ft.	29.11.2016	PPCMA No.3 of 2017

S.No.	Name of the encroacher	Date of Notice issued under S.4(2) of the Public Premises Act, 1971	Date of Notice issued under S.5(1) of the Public Premises Act, 1971	Appeal preferred under Public Premises Act, 1971
10.	Fathima David - 6 th Respondent	12.8.2016, 40 sq. ft. along with 195.93 sq. ft. land	29.11.2016	PPCMA No.3 of 2017

3.2.The pendency of the appeals has delayed the removal of unauthorised occupants. It is submitted on behalf of respondent No.1 that directions may be issued to the Principal District Judge, Chengalpattu, to dispose of the appeals expeditiously on merits, after giving the parties an opportunity of hearing.

4.Since, respondent No.1 has already initiated proceedings for removal of encroachments under the provisions of the Public Premises (Removal of Unauthorised Occupants) Act, 1971, no further order need be passed in this writ petition, except to direct respondent No.1 to pursue the said proceedings diligently.

5.We also request the concerned Principal District Judge, Chengalpattu, to dispose of the pending appeals, as expeditiously as possible, after giving the petitioner and the respondents 2 to 6, an opportunity of hearing. It appears that eviction orders have been obtained against some of the unauthorised occupants, namely, Ethiraj, Ravi and Caroline, who are in occupation of land, having not filed any appeal against orders of eviction passed against them on 29.11.2016. The Deputy Commissioner, St. Thomas Mount District Police, shall render necessary assistance to respondent No.1 for eviction of the unauthorised occupants in terms of Section 315 of the Cantonment Act, 2006.

6.Writ petition is, accordingly, disposed of. There shall, however, be no order as to costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sra

To

1.The Chief Executive Officer,
Officer of the Cantonment Board,
North Parade Road,
St. Thomas Mount, Chennai 600 016.

2. The Principal District Judge, Chengalpattu.

3. The Deputy Commissioner St. Thomas Mount
District Police, Chennai.

+ 4 cc to Mr.S. Kumaresan, Advocate Sr.22989

+ 1 cc to M/s. King & Partridge, Advocate SR.22930

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