

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.08.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.21576/2017 & WMP.Nos.22565 & 22566/2017

- 1.Mr.T.Kannan
- 2.Mr.A.Ramu
- 3.Mr.M.Kannan
- 4.Mrs.J.Swarnalatha

..Petitioners

Versus

- 1.The Secretary
State of Tamil Nadu
Housing and Urban Development
Secretariat, Chennai 600 009.
- 2.The Special Commissioner &
Commissioner for Land Administration
Chennai 600 005.
- 3.The Commissioner of Greater Chennai
Corporation, No.1131, EVR Periyar Salai
Park Town, Ripon Buildings, Chennai 600 003.
- 4.The Regional Deputy Commissioner
Greater Chennai Corporation, Zone-XI
South, Valasaravakkam, Chennai 600030.

- 5.The District Collector
Thiruvallur District.

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the 4th respondent and quashing his impugned eviction notice issued under section 220 read with 222 of the Chennai City Municipal Corporation Act, 1919, vide Zone-XI, C.No.E2/5035/2016 dated 06.06.2017 issued to all the petitioners herein.

For Petitioners: Mr.K.Ravi Anantha Padmanabhan
For RR 1,2&5 : Mr.A.N.Thambidurai, Spl.GP
For RR 3&4 : Mr.A.Nagarajan

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondents 1, 2 and 5 and Mr.A.Nagarajan, learned Standing Counsel accepts notice on behalf of the respondents 3 and 4.

2 The petitioners are four in number and the 1st petitioner has sworn in the affidavit on his behalf and also on behalf of the other petitioners and he would aver among other things that they are the residents of Sridevikuppam Main Road, Valasarawakkam, Chennai-87 for very many years and they have also been issued with Voters ID Cards, Aadhar Cards and their superstructures are also subjected to statutory levies. The 1st petitioner would further aver that on an earlier occasion, when road widening was sought, they have accommodated and the width of the road is about 5 feet and therefore, the free flow of traffic is not affected and their superstructures / residences are located about 15 feet away from the edge of the main road and therefore, it can be termed as an unobjectionable encroachments. The grievance expressed by the petitioners is that all of a sudden, the 4th respondent, by invoking section 220 read with 222 of the Tamil Nadu City Municipal Corporation Act, 1919, has issued the impugned notices calling upon them to remove the encroachments within a period of fifteen days from the date of receipt of the said notices, failing which, precipitative action will be initiated against them and hence, challenging the legality of the same, the petitioners are before this Court, by filing the present writ petition.

3 The learned counsel for the petitioners invited the attention of this Court to the typed set as well as to the affidavit and would submit that the petitioners' residences/shops are located far away from the main road and as such, there is no hindrance to free flow of traffic and the families of the petitioners and their forefathers were living for so many years and therefore, at this distance point of time, they may not be evicted and prays for appropriate orders.

4 Per contra, the learned Standing counsel appearing for the respondents 3 and 4 would submit that admittedly, the petitioners are encroachers on the road margin and the free flow of traffic is also affected and as such, a fair decision has been taken to remove the encroachments in accordance with law.

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

6 Though the petitioners have prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the same, permits the petitioners to respond to the impugned notices in the form of representations by enclosing relevant documents to the 4th respondent along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the 4th respondent is directed to consider the said representations on merits and in accordance with law and pass appropriate orders within a further period of six weeks thereafter and communicate the decision taken, to the petitioners herein and till then, shall defer further proceedings in terms of the impugned notices dated 06.06.2017.

7 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Secretary
State of Tamil Nadu
Housing and Urban Development
Secretariat, Chennai 600 009.
- 2.The Special Commissioner &
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South, Valasaravakkam, Chennai 600030.
- 5.The District Collector
Thiruvallur District.

- + 1 cc to Mr. K. Ravi Anantha Padmanaban, Advocate Sr.58108
- + 1 cc to Mr. A. Nagarajan, Advocate SR.58432
- + 1 cc to Government Pleader Sr.58731

WP.No.21576/2017

KJI (CO)

EU 21.08.17