

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.08.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.21894/2017 & WMP.Nos.22926 & 22927/2017

1.Pushparaj
2.Jeevanandam
3.Punniyakotti

Petitioners

Versus

1.The Chairman
Tamil Nadu Slum Clearance Board
Rajaji Salai, Chepauk
Chennai 600005.
2.The Executive Engineer
Tamil Nadu Slum Clearance Board
Division No.III, Chennai 600039.
3.The Estate Officer-2
Estate Office-2,
Tamil Nadu Slum Clearance Board
Vysarpadi, Chennai 600029.

Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relevant to the order in Na.Ka.No.A5/341/EA2/2016 dated 19/7/2017 passed by the respondents 2 & 3 and quash the same as illegal, improper, unreasonable, arbitrary and against the rule of law and natural justice and thereby direct the respondents to issue allotment order to the petitioners in respect of their respective portions occupied by the petitioners for their residence in the property situated in Door No.24C, Door No.24B and Door No.24A, Plot No.30 to an extent of 76 sq.m., of each petitioners at New Vazhima Nagar, Krishnadass Road, Perambur Barracks, Chennai-600012.

For Petitioners : Mr.A.Rajesh Kanna
For R1 to 3 : Mr.M.Rajasekar

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.M.Rajasekar, learned Standing counsel accepts notice on behalf of the respondents 1 to 3.

2 The petitioners claim that they are residing in Plot No.30, Door Nos.24C, 24B and 24A, New Vazhima Nagar, Krishnadass Road, Perambur Barracks, Chennai - 12, respectively, for more than 20 years and each of them are in possession and enjoyment of the lands admeasuring to an extent of 76 sq.m., each in Plot No.30, and also put up a temporary superstructure. The petitioners would further aver that they have been issued with Ration Cards, Voter ID Cards and Aadhar Cards and Electricity service connection has also been given to them. They would further aver that to their shock and surprise, on 20.07.2017, the officials of the respondents came to their premises and issued individual notices dated 19.07.2017, alleging that the petitioners are encroachers and calling upon them to remove the encroachment within 15 days from the date of receipt of the notice, failing which, action will be taken to evict them through due process of law and challenging the legality of the same, the present writ petition is filed.

3 The learned counsel for the petitioners would submit that one Tmt.Glory has filed WP.No.5905/2013 against the respondents 1 to 3 herein as well as one Apoorvam, praying for disposal of the representation dated 08.01.2013 and the Hon'ble First Bench of this Court vide order dated 19.10.2016, has disposed of the said writ petition, by directing the respondents 1 to 3 therein to remove the encroachments if any, in accordance with law, after putting the all concerned on notice and take action within the stipulated time and admittedly, the petitioners have not been arrayed as parties to the said writ petition and as such, they are unable to put forth their stand and therefore, prays for appropriate orders.

4 Per contra, the learned Standing Counsel appearing for the respondents would submit that the petitioners are encroachers and therefore, action is taken to remove the encroachments strictly in accordance with law.

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

6 In the light of the facts and circumstances and the rival submissions, this Court directs the respondents 1 to 3 to

treat the impugned notices as Show Cause Notices and the petitioners are at liberty to submit their response within a period of four weeks from the date of receipt of a copy of this order along with relevant documents if any, to the 3rd respondent and the 3rd respondent upon receipt of the same, shall give an opportunity of personal hearing to the petitioners or their authorised representatives and also put Tmt.Glory/John ; Ilda/George ; Apoorvam, Pushparaj/Durai, Singaram/Seman and Gajendran/Munusamy and the concerned persons on notice and thereafter, shall dispose of the representation on merits and in accordance with law within a further period of six weeks thereafter and till such time, shall defer further decision in terms of the impugned notices dated 19.07.2017. It is also made clear that till the disposal of the representation by the 3rd respondent, the petitioners shall not create any third party rights in respect of the land and superstructure in question.

7 The writ petition stands disposed of with the above direction at the admission stage itself. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

AP

To

1.The Chairman

Tamil Nadu Slum Clearance Board
Rajaji Salai, Chepauk
Chennai 600005.

2.The Executive Engineer

Tamil Nadu Slum Clearance Board
Division No.III, Chennai 600039.

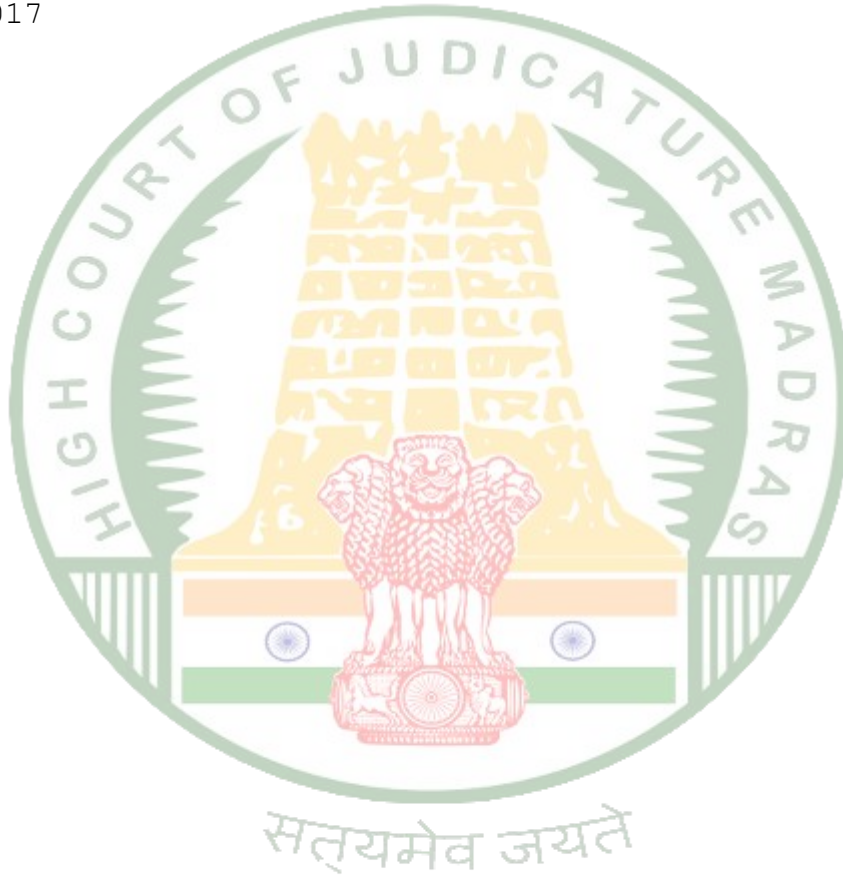
3.The Estate Officer-2

Estate Office-2,
Tamil Nadu Slum Clearance Board
Vysarpadi, Chennai 600029.

+1 cc to M/s.M.Raja Sekhar Advocate sr 59060
+1 cc to M/s.A.Rajesh Kanna Advocate sr 58987

WP.No.21894/2017

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