

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.28391 of 2017

A.Rajkumar

.

.. Petitioner

vs.

1. The Government of Tamil Nadu,
rep. by its Secretary to Government,
Public Works Department,
Fort St. George, Chennai 600 009.
 2. The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai.
 3. The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Street,
Chennai 600 005.
- Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the 2nd respondent not to evict the petitioner from the slum area at No.11/2, Ramasamy Street, Mackeys Garden, Greams Road, Thousand Lights, Chennai 600 006.

For Petitioner : Mr.K.J.Saravanan
For 1st Respondent : Mr.Vijay Narayan, Advocate General
assisted by Mr.C.Vigneswaran
& Mr.Gautham Venkatesh
& Mr.S.Diwakar,
Special Govt. Pleader

For 2nd Respondent : Mr.T.C.Gopalakrishnan

For 3rd Respondent : Mr.B.Kesavan

O R D E R

Petitioner herein, who is residing in the slum area at No.11/2, Ramasamy Street, Mackeys Garden, Greams Road, Thousand Lights, Chennai 600 006, has come up with this Writ Petition seeking a direction to the 2nd respondent/Corporation not to evict him from the said place.

2. According to the petitioner, he is in possession of Family Card, Voter ID Card, Aadhar card and other records issued by the authority concerned; his children are studying in the neighbourhood school and that he is employed in the locality, where he lives. It is the case of the petitioner that the respondent officials are continuously threatening to demolish his house and they claim that they have arranged resettlement at Perumbakkam, which is more than 30 kms away from the present residential area, for which he has to pay Rs.30,000/- towards EB connection and monthly rent of Rs.700/-. His main grievance is that his children, who are studying in the nearby school will lose their studies for the present academic year, if he is vacated.

3. In the counter affidavit filed by the 2nd respondent/Corporation, it is stated that the area encroached by the petitioner is lying in the border of Coovam river starting from Greams road and ending with Binny road. According to the 2nd respondent, encroachments on Coovam river bed are of much hindrance to the free flow of Coovam river waterways and it is the cause for floods.

4. It is further stated in the counter that totally 1267 families have illegally encroached the Coovum River bed, out of which 390 families are in Mackeys Garden, where the petitioner is residing. The officials of the 1st and 3rd respondents jointly conducted enumeration pertaining to the above area in June and July 2017 and based on the enumeration, the 3rd respondent allotted flats at Perumbakkam under the Jawaharlal Nehru National Urban Renovation Scheme and that the petitioner herein viz. A.Rajkumar is allotted alternative accommodation vide Sl.No.1492 in the name of his wife, Sasikala. The 2nd respondent has also stated that at the time of shifting the families from the existing slum to the allotted site, i.e. Perumbakkam, shifting charges as also expenses towards food for three days will be borne by the respondents apart from arranging school admission for their children in Chennai.

5. Learned counsel for the petitioner submitted that if the petitioner is evicted forcefully during the present academic year, studies of his children will be affected. He also produced an affidavit dated 17.11.2017 filed by the petitioner, undertaking to vacate his house in the slum in question in April 2018. He further submitted that the petitioner's son is studying in a private school at Egmore. Since the alternative accommodation arranged by the respondents is at Perumbakkam, learned counsel pleaded that the respondents may make arrangements for admitting the petitioner's son in a private school in Ambattur or Thirumazhisai, to enable the child

continue his studies without any difficulty.

6. Mr.Vijay Narayan, learned Advocate General submitted that encroachers on the Coovum River bed have been identified and they have been allotted alternative accommodation and that the petitioner herein has to necessarily evict the present premises and shift to the site allotted to him and he has no right to continue to live as an encroacher. As regards the education of the petitioner's children, learned Advocate General submitted that necessary arrangements will be made by the respondents in accommodating them in appropriate schools.

7. Taking note of the submissions of the learned counsel on either side and having regard to the facts and circumstances of this case, this Court is inclined to pass the following order:

(i) Respondents are directed to hand over the token/key to the petitioner in respect of the alternative accommodation at Perumbakkam within two days from the date of receipt of a copy of this order;

(ii) Within three days from the receipt of token/key from the respondents, the petitioner shall vacate the premises and shift to the alternative accommodation, so provided;

(iii) Respondents shall take necessary steps to accommodate the petitioner's children in appropriate schools, be it a private school or Corporation School, preferably in and around Ambattur or Thirumazhisai, within three days from the date of receipt of a copy of this order.

8. Keeping in mind the unhygienic atmosphere prevailing in the slums located on Coovum River bed, which causes several health hazards to the people residing there, this Court is of the view that apart from evicting the petitioner herein, the respondents shall ensure eviction of all the encroachers on the Coovum River bed. Possession of Ration Card, Voter ID and Aadhar Card cannot be ground for the encroachers to claim continuance of living on Coovum River bed.

9. This Court makes it clear that in case, the petitioner is found renting or leasing out the tenement/alternative accommodation to a third person, he shall deemed to have been immediately evicted and the Slum Clearance Board shall allot such tenement to other allottee. To ascertain whether the allottee is residing in the alternative place or not, the authorities shall conduct a surprise inspection and ask for the details about the person residing there. If the allotted person

or his family is not residing there, such allottee shall not be shown any indulgence or mercy.

No costs. Consequently, connected W.M.P.No.30489 of 2017 is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Secretary to Government,
Government of Tamil Nadu,
Public Works Department,
Fort St. George, Chennai 600 009.
2. The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai.
3. The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Street, Chennai 600 005.

+1cc to Mr.K.J.SARAVANAN Advocate, S.R.No. 81752

Order in
W.P.No.28391 of 2017

MR (CO)
TR(28/11/2017)

सत्यमेव जयते
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