



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2017

CORAM:

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.17869 of 2017 and
W.M.P (MD)No.14387 of 2017

1.Arumugam
2.Pithaiyammal
3.Banumathi
4.Santhi
5.Tamil Selvi

: Petitioners

.vs.

1. The District Collector,
Pudukkottai District.

2. The Commissioner of Municipality,
Pudukkottai.

3. The Tahsildar,
Pudukkottai Taluk and District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus forbearing the respondents and their men from evicting the Petitioners from the their house bearing Door Nos.51,51/1, 56, 54 and 55 respectively situated in T.S.No.8548 of Pudukkottai Municipality, Malaiyappa Nagar, Malayeedu, Thirumayam road, Pudukkottai Distrit without following the procedure of law.

For Petitioner : Mr.P.Jamal Mohammed
for M/s.K.Balasundharam
For Respondents : Mr.T.R.Janarthanan
1 and 3 Additional Govt.Pleader
For Respondent-2 : Mr.P.Mahendran

O R D E R

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

This Writ Petition has been filed seeking issuance of a Writ of Mandamus forbearing the respondents and their men from evicting the Petitioners from the their house bearing Door Nos.51,51/1, 56, 54 and 55 respectively situated in T.S.No.8548 of Pudukkottai Municipality, Malaiyappa Nagar, Malayeedu, Thirumayam road, Pudukkottai Distrit without following the procedure of law.



2. Heard both sides. Counter of R2 is filed. No counter is filed on behalf of the Respondents 1 and 3.

3. By consent, the main Writ Petition itself is taken up for final disposal.

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4. According to the Petitioners, they have their Family Card, Voters Identity Card, Aadhaar Card and other ID Proof from the Government Authority. They also possess Electricity Connection and water connection to their houses provided by the Municipality concerned. They have paid house-tax and necessary fees in respect of underground drainage to the Pudukkottai Municipality.

5. The Petitioners come out with a plea that T.S.No.8548 of Pudukkottai was classified as 'Natham Poramboke' in village accounts and they are residing in the afore-said place for more than 40 years. However, the Revenue Officials had not issued patta till date in spite of their repeated representations.

6. When that be the facts situation, on 19.6.2017, the Second Respondent's Subordinates came to the Petitioners' place and threatened to evict them from the property concerned. Immediately, they submitted a representation before the First Respondent/The District Collector, Pudukkottai District to stop the illegal eviction process and made a request to grant them the patta. On 22.06.2017, the Second Respondent's Subordinates and Revenue Officials came along with Police Men with JCB Machine and demolished some adjacent houses. Immediately, they went to the First Respondent's Office and requested him to restrain the illegal eviction by the Second Respondent. The First Respondent/The District Collector, Pudukkottai District had orally assured the Petitioners that they will not be evicted from their houses.

7. The main plea of the Petitioners is that the subordinates of the Second Respondent/Municipality came to their property on 14.09.2017 at about 11.00 a.m., together with 15 Policemen and instructed the Petitioners to vacate their houses forthwith on coming Monday itself.

8. The version of the Petitioner is that there is a Community Hall and Karuppar Temple nearer to their house and to the Petitioner's knowledge, their houses are situate in T.S.No.8548 which was originally classified as 'Natham Poramboke' in the village accounts and it does not vest with the Respondents. Therefore the vehement contention of the Learned Counsel for the Petitioners in this regard is that the Second Respondent/Municipality is not entitled to evict the Petitioners without following the proper procedure contemplated under Law, even if the property vest with the Second Respondent/Municipality.

9. In the Writ Petition, ultimately the Petitioners have sought for an order to be passed by this Court in forbearing the



respondents and their men from evicting the Petitioners from the their house bearing Door Nos.51,51/1, 56, 54 and 55 respectively situated in T.S.No.8548 of Pudukkottai Municipality, Malaiyappa Nagar, Malayeedu, Thirumayam road, Pudukkottai District without following the procedure of law.

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10.In response, the Learned Standing Counsel for the Second Respondent/Municipality submits that the property in respect of T.S.No.8548/1 and 8548/6, new T.S.No.5/6 and 5/7 and Block No.84 measuring a total extent of 12.43 acres belongs to the family members of one Muthuraman, Son of subramanian Chettiar, Chokkalingam Chettiar and Valliappan. However, during the year 1985, they laid plots in the above said property after obtaining necessary approved plan from the Town and Deputy Director of Town and Country Planning Office, Sivagangai vide proceedings in Ma.Pa(ma)Pa.Pu.ma.No.59 of 1985. As a matter of fact, the afore-said members had gifted the land to an extent of 150 feet wide for the purpose of providing basic road side amenities to the Second Respondent/Municipality as per the Gift Deed No.1968/69, dated 13.09.1989.The aforesaid land is standing in the name of the Second Respondent/Municipality as per the revenue records. On the basis of the above said Gift Deed, 150 ft of land was donated to the Second Respondent/Municipality. The said extent was divided by the Second Respondent/Municipality into 50 feet each more fully 50 feet in the gross root level midway and 50 feet each on either side of the road margin and out of the 50 ft southern side road, the Public have been utilizing the same for their movement purposes. In regard to the gross root level midway 50 feet road is concerned, in the year 2004, under the Scheme Swarna Jayanthi Sahahari Rozgar Yajana Scheme(SJSRY), earlier a community hall(at present City Livelihood Centre) and under the scheme more fully VAMBAY(Valmiki Ambedkar Awas Yojana), a public toilet was constructed in T.S.No.8548/6. In fact, this facility has been provided more fully for the people residing in the nearby areas identically Karpaga Nagar and Vattavatti.

11.It comes to be known that one V.Kumaresan filed a Public Interest Litigation before this Court in W.P(MD)No.1771 of 2017 seeking for the relief of issuance of a Writ of Mandamus directing the Respondents to remove the encroachment in the Nainarkulam, Chinna Vengayyan Kulam, Dairy Farm to Malaiyeedu, Pudukkottai to Machuvadi Road, Thiruvappur to Mettupatti Road by taking necessary action based on the Petitioners' representation, dated 13.1.2017. This Court, on 2.2.2017, had disposed of the Writ Petition by issuing a direction to the official respondents, more particularly, the District Collector, Pudukkottai District, the Second Respondent/Municipality, Highways Department, National Highways Authority to strictly remove the encroachments. Thereafter the Second Respondent/Municipality had commenced action for removal of encroachments in the lands which are under its control. In the above Writ Petition, a Contempt Petition No.694 of 2017 was filed for fulfillment of the removal of encroachments. Thereafter, all the encroachments which were yet to be removed have also been removed

and finally the above Contempt Petition was closed by this Court.

12. One Purachivel had filed W.P.No.12617/2017 in respect of removal of Karuppar Temple and Community Hall existing in T.S.No.8543/3 and T.S.No.8548/6. Insofar as the land in T.S.No.8548/3 is concerned, the same is a road margin. Finally, the said Writ Petition was disposed of by this Court based on the affidavit filed by the Second Respondent/Municipality, wherein, it was stated that the Community Hall was put up under Swarna Jayanthi Sahahari Rozgar Yojana Scheme and the toilet was constructed under Valmiki Ambedkar Awas Yojana and the question of demolishing such constructions put up by using public funds cannot arise.

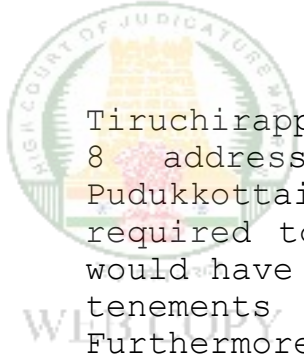
13. As regards the present Writ Petitioners are concerned, they have not at all mentioned the actual facts in the affidavit filed in support of the above Writ Petition etc because of the reason that the said land occupied by them belonged to the Second Respondent/Municipality, which is on the road side. In fact, 14 persons including these Writ Petitioners had to evict from the encroached land during execution of orders passed by this Court in the month of June 2017 and all the encroachments were thatched houses and there is only one roofed house.

14. Thereafter, the Writ Petitioners have approached the First Respondent/The District Collector, Pudukkottai District praying for an alternative accommodation through their petition, dated 19.6.2017 which was forwarded to the Second Respondent/Municipality for necessary action and the Second Respondent/Municipality after considering the same had recommended the above said persons to the Executive Officer, Tamil Nadu Slum Clearance Board, Trichy vide proceedings, dated 20.6.2017 in Na.Ka.No.F3/1302/2017 for allotment of houses to them in accordance with Law. After the grant of an order of status-quo by this Court in W.P(MD)No.17869 of 2017, the Petitioners have simply erected the thatched house in the same place, but they are not residing in the said place.

15. It transpires that the Executive Officer, Tamil Nadu Slum Clearance Board, has replied to the Second Respondent/Municipality through communication, dated 3.11.2017 stating that necessary action to provide houses to the persons who were recommended by the Second Respondent/Municipality including the Writ Petitioners is under active consideration and they would be given accommodation under the Narimedu Scheme and as per payment of contribution by the beneficiaries (Writ Petitioners) and in accordance with Law.

16. In view of the above, the Learned Counsel for the Second Respondent/Municipality takes a plea that the Writ Petitioners are not entitled for any relief as claimed by them in T.S.No.8548, Malayappa Nagar, Malayeedu, Thirumayam Road, Pudukkottai District.

17. Be that as it may, on perusal of the letter/communication of the Administrative Engineer of the Tamil Nadu Slum Clearance Board,



Tiruchirappalli Division, Madurai Road, Palakkarai, Tiruchirappalli-8 addressed to the Commissioner, Pudukkottai Municipality, Pudukkottai, dated 3.11.2017 indicates that the beneficiaries are required to pay a sum of Rs.78,500/- to the Board and this amount would have to be paid by them within one year before construction of tenements and the said payment can be made in installments. Furthermore, if the condition imposed by the Slum Clearance Board in regard to the payment of installments as afore-stated is accepted, then the 15 encroachers/residents at Narimedu Scheme Area would be given house allotment through the Board.

18. In view of the fact that the Administrative Engineer of the Tamil Nadu Slum Clearance Board had addressed a communication dated 3.11.2017 to the Commissioner, Pudukkottai Municipality, wherein, the beneficiaries were required to pay their contribution in installments before the construction of tenements, this Court is of the considered view that one year time is granted to the beneficiaries for the contribution amount to be paid by them as afore-stated including the Petitioners and as such, this Court is of the considered opinion that the Petitioners shall avail of such benefits and to take advantage of the same to the maximum extent possible, if they so desires/advised.

19. In view of the above and recording the contents of the letter of the Administrative Engineer, Slum Clearance Board, Tiruchirappalli Division, addressed to the Commissioner, Pudukkottai Municipality, this Court closes the Writ Petition, as nothing survives for any further adjudication. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar ()

/True Copy/

Sub Assistant Registrar

To

1. The District Collector, Pudukkottai District.
2. The Commissioner of Municipality, Pudukkottai.
3. The Tahsildar,
Pudukkottai Taluk and District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.87611
+ 1 CC TO Mr.P.MAHENDRAN, ADVOCATE IN SR No. 87808
+ 1 CC TO Mr.K.BALASUNDHARAM, ADVOCATE IN SR No. 87518

VSN

TE/SKN-RSK/SAR-1 : 30/11/2017 : 5P/7C

ORDER MADE IN
W.P. (MD) No.17869 of 2017 and
W.M.P (MD) No.14387 of 2017
15.11.2017