

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.8250/2018

M.Paripoornam

Petitioner

Versus

1.The Chairman
Tamil Nadu Slum Clearance Board
Kamarajar Salai, Chennai 600 005.

2.The Principal Secretary / Managing Director,
Tamil Nadu Slum Clearance Board
Kamarajar Salai, Chennai 600 005.

3.The Estate Officer
Tamil Nadu Slum Clearance Board
Estate Office No.6, Chennai 600 005.

4.Mrs.Malliga

Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 2nd respondent to consider and take necessary action on the representation of the petitioner dated 10.08.2017 for removal of encroachment made by the 4th respondent in the property of the petitioner bearing Plot No.54, Thanthai Periyar Ngar, Tharamani, Chennai 600 113.

For Petitioner : Mr.R.Munuswamy
For R1 to R3 : Mr.S.Prabhu

ORDER

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

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

2 The petitioner would state that Plot No.54, Thanthai Periyar Nagar, was allotted in her favour under MDUP Scheme and the adjacent Plot No.53, was originally allotted to one Thiru. Jayaraman and on his demise, it was re-allotted in favour of the 4th respondent based on the Legal Heirship Certificate. It is the specific case of the petitioner that the 4th respondent had illegally encroached into a portion of her plot and reduced the extent and in this regard, has filed WP.No.6794/2015 to take appropriate action and it was disposed on 17.08.2015 by this Court, directing the 3rd respondent therein to consider and dispose of the said representation. The 4th respondent, apprehending demolition of the alleged offending portion, filed OS.No.6484/2015 on the file of the Court of City Civil Court, Chennai, for permanent injunction and pending disposal of the same, filed IA.No.16006/02015 for ad-interim injunction, in which, the

petitioner herein was arrayed as the 1st respondent and the Divisional Officer, TNSCB, Chennai-4 and the Chairman, TNSCB, Chennai-5 were arrayed as respondents 2 and 3 respectively. The application was contested and it was dismissed on 26.10.2016 since no further challenge has been made, the said became final. Thereafter, the petitioner has submitted a representation dated 21.01.2017 to the 1st respondent pointing out the disposal of OS.No.062/2015 and WP.no.34493/2015 and prayed for appropriate action. The 2nd respondent, vide communication dated 06.03.2017 in Na.Ka.No.E6/2559/2015, has reminded to the 3rd respondent as to the earlier direction to cause survey and inspection of the plot and submit a report and since it has not been done so, the said official was called upon to do the said exercise immediately.

3 The learned counsel for the petitioner would submit that despite such a direction from the superior official, the 3rd respondent is yet to act upon the said communication and in this regard, the petitioner has once again submitted a representation dated 10.08.2017 and once again, the 2nd respondent has directed one Natarajan, S/o.Munusamy, to remove the encroachment from Plot No.54. Learned counsel would further submit that Natarajan, S/o.Munusamy, is nothing to do with Plot No.54 and admittedly, the petitioner is allotted the said Plot and therefore, prays for appropriate orders to cause removal of the encroachment upon her plot and hence, the petitioner is constrained to approach this Court by filing the present writ petition.

4 The Court heard the submissions of Mr.S.Prabhu, learned Standing counsel for respondents 1 to 3 and also perused the materials placed before it.

5 This Court, taking into consideration, the above facts and circumstances and without going into the merits and claim projected by the petitioner either in her representation or in this writ petition, directs the 3rd respondent act on the communication of the 2nd respondent dated 06.03.2017 in Na.Ka.No.E6/2599/2015 and after putting the petitioner and the 4th respondent on notice, shall cause inspection of plot Nos.53 and 54 within a period of four weeks from the date of the receipt of a copy of this order and depending upon the survey and inspection, shall take appropriate action in accordance with law within a further period of ten weeks thereafter and communicate the decision taken, to the petitioner as well as to the 4th respondent herein.

6 The writ petition stands disposed of with the above direction. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

AP

To

1.The Chairman

Tamil Nadu Slum Clearance Board
Kamarajar Salai, Chennai 600 005.

2.The Principal Secretary / Managing Director,

Tamil Nadu Slum Clearance Board
Kamarajar Salai, Chennai 600 005.

3.The Estate Officer

Tamil Nadu Slum Clearance Board
Estate Office No.6, Chennai 600 005.

+1 cc to Mr.R.Munuswamy Advocate sr 25874

+1 cc to Mr.S.Prabu Advocate sr 26226

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