

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:04.12.2018

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr. JUSTICE R.PONGIAPPAN

W.P.No.1341 of 2008 and
M.P.No.1 of 2008

Bharathi Nagar Kudi Irupore Nala Sangam,
Rep. By its Secretary A.Gopal,
S/o. Arumugam,
No.48, Bavani Street,
Bavani Nagar,
Chennai - 600 113.

... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. By its Secretary to Government
Housing and Rural Development,
Fort St. George,
Chennai - 600 009.

2.The Chairman,
The Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai,
Chennai - 600 005.

3.The Commissioner,
Corporation of Chennai, Chennai.

4.The Chief Engineer,
Highways Department, Chennai

5.The Southern Railway,
rep. By its General Manager,
Chennai.

[R5 impleaded as per order
dated 24.10.2009 in MP.No.1/2009]

6.Mass Rapid Transit System
Railway Concession Office Complex,
Poonamallee High Road, Egmore,
Chennai - 8.

[R6 impleaded as per order dt. 16.12.2009]

7.The Member Secretary,
Chennai Metropolitan Development Authority,
(CMDA) No.1, Gandhi Irwin Road,
Emgore, Chennai - 600 008.

8.The Registrar,
Anna University, Guindy, Chennai.

[R7 & R8 impleaded as per order
dt.25.01.2018]

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the Respondents to issue notice to the residents of Bharathi Nagar in regard to widening of Bharani Street before taking any decision thereon and offer them a reasonable opportunity of being heard.

For Petitioner : Mr.T.S.Baskaran
For RR 1 & 4 : Mr.J.Pothiraj
Special Govt. Pleader
For 2nd Respondent : Mr.R.Sivakumar
For 3rd Respondent : Mr.R.Arummozhi
For RR 5 & 6 : Mr.P.T.Ramkumar
For 7th Respondent : Mr.Karthik Rajan
For 8th Respondent : Mr.Vijayakumar

O R D E R

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

Heard both sides.

2.The Petitioner/Nala Sangam has filed the instant Writ Petition praying for passing of an order by this Court in directing the Respondents to issue notice to the residents of Bharathi Nagar in regard to widening of Bharani Street before taking any decision thereon and offer them a reasonable opportunity of being heard.

3.It comes to be known that the 2nd Respondent/Tamil Nadu

Slum Clearance Board, Chennai, in its counter, has taken a stand that under the Tamil Nadu Development Project, the Bharathi Nagar Scheme in Taramani area, there are totally 402 plots and out of the said 402 plots, allotments were made to 350 plots and the allotment were not made to the remaining 52 plots. As a matter of fact, the persons to whom the allotments were made and those persons who had paid the first instalments and thereafter, the monthly instalments and also the sale amount were given 'No Objection' for obtaining electricity, water and sewerage connection and for securing loan for the proposed construction on the allotted land etc. and lease cum sale agreement were also given to the allotted persons. Indeed, the beneficiaries of the allotted plots were given the rental agreements beginning from 01.01.1995 for a period of 20 years. However, till date no one was issued with a Sale Deed.

4. According to the 2nd Respondent/Tamil Nadu Slum Clearance Board, the Bharani Street, which is 40 feet wide, leads to the 150 feet link road area towards the Perungudi Railway Station. But the said Bharani Street is now only 20 feet in breadth. Since the Railway Administration proposed to broaden the Bharani Street from the present 20 feet to 40 feet (viz., 10 feet on either side) the Plot Nos. 2 to 6, 8 to 22, 24 to 32, 50 to 53, 71, 72, 86, 87, 89, 90, 94, 95, 101, 102, 106, 107, 112, 113, 117, 118, 121, 122, 126, 127, 135 to 140 are likely to be affected due to the broadening of the Bharani Street. Moreover, none of the 59 individuals, who are likely to be affected due to broadening of Bharani Street, were not evicted as on date by the Board and the Board had also not given any notice. That apart, it is only the Railway Administration which is proposed to take action for broadening the Bharani Street.

5. In so far as the 3rd Respondent/Corporation of Chennai is concerned, the D.R.O./Zonal Officer, Zonal Office-XIII, Greater Chennai Corporation, in his counter dated 22.01.2018, had averred that '... the Bharani Street is the only access connecting the Taramani 100 Feet Road with the MRTS Perungudi Railway Station and there is no other link road in existence connecting the Taramani 100 Feet Road with the MRTS Perungudi Railway Station. Further, the width of the Bharani Street is 60 feet and the same became narrow to 20 feet wide near the tenement developed by the Tamil Nadu Slum Clearance Board under the Tamil Nadu Urban Development Project, due to which there is a heavy traffic movement and there is high risk of accidents'. Further that, the Greater Chennai Corporation is following the rules framed by the Chennai Metropolitan Development Authority and that as per the Second Master Plan - 2026 of the Chennai Metropolitan Development Authority, the said road is under the proposal to be widened.

6. The Zonal Officer of the 3rd Respondent/Zonal Office-XIII,

Greater Chennai Corporation in his Report dated 01.08.2018 at paragraph 7, had averred that '... as of now there is no proposal to widen the said road by the Greater Chennai Corporation and further that, the said land belongs to the Anna University and thereafter, it is learnt that permission to enter was given to the Slum Clearance Board. Furthermore, it is the clearcut stand of the 3rd Respondent that further action will be taken following the rules and procedures in case of widening proposal in future by the Greater Chennai Corporation.

7. Earlier, on 23.03.2018, this Court in W.P.No.1341 of 2008 at paragraph 7, had observed the following:

"7. As the matter is pending for nearly 11 years, we are of the view that an affidavit has got to be filed within 10 working days from today. As on date, there is no threat to the members of the Petitioner/Sangam, as there is no proposal made by any one of the Respondents to the Chennai Metropolitan Development Authority seeking widening of the road."

8. In view of the categorical stand of the 3rd Respondent/ Corporation of Chennai that as of now there is no proposal to widen the said road by the Greater Chennai Corporation and that the said Land belongs to Anna University/8th Respondent etc. and that further action will be taken following the rules and procedures in case of 'widening proposal in future' by the Greater Chennai Corporation, this Court records the same. Further, this Court directs the Respondents to adhere to the 'Principles of Natural Justice' by providing necessary opportunity to the concerned persons while taking steps for widening the Bharani Street.

9. With the aforesaid observation(s) and direction(s), the Writ Petition stands disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

Sgl

To

- 1.The State of Tamil Nadu,
The Secretary to Government
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Fort St. George,
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- 2.The Chairman,
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(CMDA) No.1, Gandhi Irwin Road,
Emgore, Chennai - 600 008.
- 8.The Registrar,
Anna University, Guindy, Chennai.
- 9.The Government Advocate,
High Court, Madras.

+2cc to Mr.T.S.Baskaran, Advocate, S.R.No. 83774
+1cc to Mr. M.Vijaya Kumar, Advocate, S.R.No. 83504
+1cc to Mr.P.T.Ram Kumar, Advocate, S.R.No. 83322

W.P.No.1341 of 2008

RGN(CO)
GN(26/12/2018)