

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2018

Coram

The Honourable Mr. Justice N.KIRUBAKARAN
and
The Honourable Mr. Justice S.BASKARAN

W.P.No.20646 of 2018
and
W.M.P.No.24267 of 2018

Chintadripet Koovam Nadikaraiyora
Siru Thozhil Paadukappu Sangam
(Society registered under the Societies Act)
rep. by its President ... Petitioner

Vs.

- 1.State of Tamil Nadu
rep. by its Secretary,
Public Works Department,
Fort St. George, Chennai.
- 2.The District Collector,
Chennai District,
Singaravelar Maaligai,
No.62, Rajaji Salai,
Chennai - 1.
- 3.The Executive Engineer,
Public Works Department,
Cooum Basin Sub Division,
Chepauk, Chennai - 5.
- 4.Executive Engineer,
Chennai Special Division III,
Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk, Chennai - 5. ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to consider the petitioner's representation dated 06.08.2018 and pass orders thereon interalia granting six months time for the members of the petitioner Association to relocate from and out of their present occupation at West Coovam River Salai, East Coovam River Salai and Dams Salai in Chintadripet, Chennai (referred to as Auto Nagar Project area).

For Petitioner .. Mr.Sai Srujan Tayi
for M/s.Giridhar and Sai

For Respondents.. Mr.R.Udhayakumar,
Addl. Govt. Pleader

ORDER

(Order of the Court was made by N.KIRUBAKARAN, J.)

Seeking a direction to the respondents to consider the petitioner's representation dated 06.08.2018 and pass orders thereon inter alia granting six months time for the members of the petitioner Association to relocate from and out of their present occupation at West Coovam River Salai, East Coovam River Salai and Dams Salai in Chintadripet, Chennai (referred to as Auto Nagar Project area), the present writ petition has been filed.

2.The petitioner is a Sangam representing the small traders who are doing business in the banks of Coovam river at Chintadripet, Chennai. The contention is that they have been doing business by occupying the said property for more than 70 years without any problem. During 1988-1989, the Public Works Department sought to take steps to evict the occupants and the occupants moved this Court. In 2008, a proposal for creation of elevated bypass road between Chennai Port and Maduravoyal junction cutting through Chennai was mooted. In furtherance thereof, the alignment of the pillars for the purpose of elevated bypass road cut across the Coovam river running along Chintadripet. Therefore, the members of the petitioner Sangam were asked to clear the places. In 2009, the occupants represented against the eviction and therefore the respondents did not proceed with the removal of the occupants. However, on 18.08.2017, the officials of the Tamil Nadu Slum Clearance Board issued notices to the 324 occupants of West Coovam River Salai, East Coovam River Salai, Dams Salai and 92 occupants in South Coovam River Salai, totalling 416 occupants of the said four streets. The Tamil Nadu Slum Clearance Board announced that a meeting would be held on 01.09.2017 for drawing lots for allotment of alternative sites at Appur village for each of the occupants viz., 324 plus 92 persons. Even though the total number of occupants are more than 1500, majority occupants did not receive notice. Therefore, they filed W.P.No.23556 of 2017 and thereafter, all the occupants were enumerated. Considering the developments during the pendency of the writ petition, by order dated 02.08.2018, the writ petition was disposed of.

3.Thereafter only, the respondents are hurriedly carrying out the eviction proceedings by bringing bulldozer with the

police force. Without even giving any notice and reasonable time, the respondents are hurriedly demolishing the structures put up by the members of the petitioner Sangam and therefore, the above writ petition has been filed.

4. Heard Mr. Sai Srujan Tayi, learned counsel appearing for the petitioner and Mr. R. Udhayakumar, learned Additional Government Pleader, who takes notice on behalf of the respondents. Even though the learned counsel for the petitioner would submit that no reasonable time was given, the learned Additional Government Pleader rightly pointed out from the affidavit filed by the learned counsel for the petitioner in para 2 that steps are being taken right from 1988-90. The eviction process could not be carried out for the past 40 years as the members of the petitioner Sangam were in the habit of approaching this Court and getting orders. He also produced the photographs to show that demolition process has already been started with the help of bulldozer with police help and many structures are found to be demolished already.

5. When it is evident for the past 40 years the respondents have been taking steps like Ghazni Mohamed, now only the process has yielded fruits. The reason for that is 250 deluge washed away many people and damaged properties to larger extent. Thereafter only, the respondents are taking effective steps to avoid any kind of contempt or loss of life of the people. In that process only, the eviction process is being carried out and the interest of common man should be protected. No doubt, the occupants would suffer initially even after they are given alternate sites. In the larger public interest, they have to bear that.

6. It is also conceded by the learned counsel for the petitioner that already the allotment orders have been served upon everybody. Therefore, interest of the members of the petitioner Sangam have already been safeguarded and no right is available for the members to continue to occupy the property as it is only a river bank. When it is required for infrastructure building exercise, necessarily people have to vacate the premises.

7. As already found from the photographs produced by the learned Additional Government Pleader, many structures put up by the members of the petitioner Sangam have been demolished. Once the demolition process is started, it should not be halted as it will give rise to problem. Therefore, the prayer sought for by the petitioner cannot be granted. The respondents are directed to expeditiously demolish and remove the debris so that the scheme would be implemented very effectively.

8.The encroachments on river banks and the public properties are stated to be done with the help of the local politicians and because of the apathy of the officials. The PWD has to find out whether all the public properties are free from encroachment and no more encroachment is made. The concerned Revenue Inspector, Tahsildar or PWD official who are responsible for administration of that area or control over that area has to be fixed with responsibility to see to it that no more encroachment is made. If any encroachment is made, immediately, the same has to be brought to the notice of the higher ups and the encroachments have to be removed immediately. Otherwise the encroachment issue would be perennial and the Government is duty bound to give alternate sites to the encroachers. In case of any failure to look after the properties, appropriate steps have to be taken against them. The Government is directed to frame Rules in this regard.

9.With the above observation and direction, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CO)

True Copy
Sub-Assistant Registrar

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To

1.The Secretary to Government,
Public Works Department,
Fort St. George, Chennai.

2.The District Collector,
Chennai District,
Singaravelar Maaligai,
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3.The Executive Engineer,
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Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk, Chennai - 5.

+1 CC to M/s.Giridhar and Sai, Advocate sr 55097.
+1 CC to Govt. Pleader sr 55659.

W.P.No.20646 of 2018

SAI (CO)
SP(06/09/2018)



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