

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.34046 of 2017

R.S.Manogaran

... Petitioner

vs.

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai.
2. The Executive Engineer,
Town Planning Section,
Greater Chennai Corporation,
Ripon Building, Chennai.
3. The Chief Engineer,
(Buildings, SWM and Mechanical Department),
Greater Chennai Corporation,
Ripon Building,
Chennai 600 003.
4. The Zonal Officer,
Zone XIII, Chennai Corporation,
L.B. Road, Dr.Muthulakshmi Salai,
Adyar,
Chennai 600 020.
5. The Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai 600 005.
6. B.Sumathi ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the 3rd Respondent to dispose of the representation of the petitioner, dated 14.09.2017 insofar as to initiate appropriate action and remove the unauthorized structure situated at Door No.5/5, K.V.B. Garden, Raja Annamalaipuram, Mandaveli, Chennai 600 028.

For Petitioner : Mr.K.Kulandai Velu
For Respondents 1 to 4 : Mr.A.Nagarajan
For 5th Respondent : Mr.S.Prabhu
For 6th Respondent : Mr.T.Arockiadoss

O R D E R

(Order of the Court was made by S.VAIDYANATHAN,J.)

The petitioner has come up with the present Writ Petition seeking a direction to the 3rd Respondent to dispose of his representation, dated 14.09.2017 to initiate appropriate action and remove the unauthorized structure situated at Door No.5/5, K.V.B. Garden, Raja Annamalaipuram, Mandaveli, Chennai 600 028.

2. According to the petitioner, the tenements in Kabalivanabojana Thottam, were originally Government Lands (Poramboke lands) developed under the Madras Urban Development Project. The Tamil Nadu Slum Clearance Board, the 5th Respondent herein, was the designated agency to implement the Madras Urban Development Project and the tenements so developed by the 5th Respondent under approved layout, were transferred to the slum dwellers vide G.O.Ms.No.1117, dated 27.06.1979 and G.O.Ms.No.1100, dated 29.08.1980. The 5th Respondent/Slum Clearance Board, while developing tenements in the approved layout of Kabalivanabojana Thottam, retained many lands as Government lands for public purpose, i.e. for Temple, roads and pre-school premises. Accordingly, the land situated in Survey No.4266/3 (Plot No.404 in the layout) at Door No.5/5, K.V.B. Garden, Raja Annamalaipuram, Mandaveli, Chennai, which is a Government land, was allotted for pre-school.

3. It is the case of the petitioner that in the remaining vacant portion of the land earmarked in Plot No.404 for Pre-school, one Sumathi, the 6th Respondent herein along with her brother, Durai had put up unauthorized superstructure and had unlawfully occupied the same. Further, from 31.08.2017, the 6th Respondent along with others have been putting up superstructures, renovating the building and unlawfully constructing compound wall in the Government land and they had also applied for electricity connection for the said unauthorized building. In this regard, the petitioner made a representation dated 14.09.2017 to the official Respondents seeking to take appropriate action against the illegal superstructure put up by the 6th Respondent herein. As no action is forthcoming, having no other alternative remedy, the petitioner is before this Court.

4. Mr.S.Prabhu, learned Standing Counsel appearing for the 5th Respondent/Slum Clearance Board, contended that the land in question pertains to the 5th Respondent/Slum Clearance Board and that at no point of time, the said land was allotted to the 6th Respondent herein.

5. The 2nd Respondent/Executive Engineer, Town Planning Section, Greater Chennai Corporation, has filed counter, wherein, the submission of the learned Standing Counsel for the Slum Clearance Board is confirmed, as it is stated therein that the Tamil Nadu Slum Clearance Board has developed residential plots at Kabalivanabojana Thottam, Raja Annamalaipuram, Mandaveli, in the year 1982, consisting of 559 plots and the Tamil Nadu Slum Clearance Board has allotted the said plots to individual persons. In paragraph 6 of the said counter, it is stated that on inspection by the Assistant Executive Engineer, Unit - 40, Zone XIII and the Assistant Engineer, Division - 173, Unit - 40, Zone - XIII, Greater Chennai Corporation, it was found that the 6th Respondent herein had closed the passage by placing a wooden door and there is no compound wall, being constructed by the 6th Respondent, as alleged by the petitioner.

6. Even though no counter affidavit is filed by the 6th Respondent herein, it is stated by the learned counsel appearing on his behalf that the 6th Respondent has been residing in the said place for more than 40 years and that a suit is filed by him against the Petitioner. However, to the question posed by this Court, learned counsel stated that the land in question is a poramboke land and that the 6th Respondent has no title to the property.

7. Heard the learned counsel on either side and perused the material documents available on record.

8. The property in question is certainly not a poramboke land, as it has been pointed out by the 2nd Respondent/Corporation in their counter, that the land has been allotted to the 5th Respondent/Slum Clearance Board. Since it is stated that the 6th Respondent has no title to the property, she has no right to continue in the said place. Though, it is stated by the 2nd Respondent/Corporation that the 6th Respondent had closed the passage with a wooden door, the same will not hinder the 2nd Respondent/Corporation and the 5th Respondent/Slum Clearance Board to remove the encroachments.

9. At this stage, it is represented by the learned counsel for the 6th Respondent that not only the 6th Respondent, but several other persons have encroached the area in question. It is needless to point out that the 2nd Respondent/Corporation shall take steps to evict the encroachers, as the encroachers, cannot, as a matter of fact, continue to stay in the public road or in the place that does not belong to them.

10. The 2nd Respondent/Corporation and the 5th Respondent/Slum Clearance Board, shall jointly remove the encroachments in and around the area in question, with police protection, within a period of one month from the date of receipt of a copy of this order. The TANGEDCO/Electricity Board of that area/division must ensure that electricity is disconnected, if there is an intimation from the Corporation and/or from the Slum Clearance Board, that there is an encroachment in the subject matter of the area in question. The passage said to have been closed by the 6th Respondent herein, as pointed out in the counter of the 2nd Respondent/Corporation, shall be removed within a period of one week from the date of receipt of a copy of this order.

The Writ Petition is disposed of with the above direction(s) and observation(s). No costs.

Sd/-
Assistant Registrar (Co)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai.
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Town Planning Section,
Greater Chennai Corporation,
Ripon Building, Chennai.
3. The Chief Engineer,
(Buildings, SWM and Mechanical Department),
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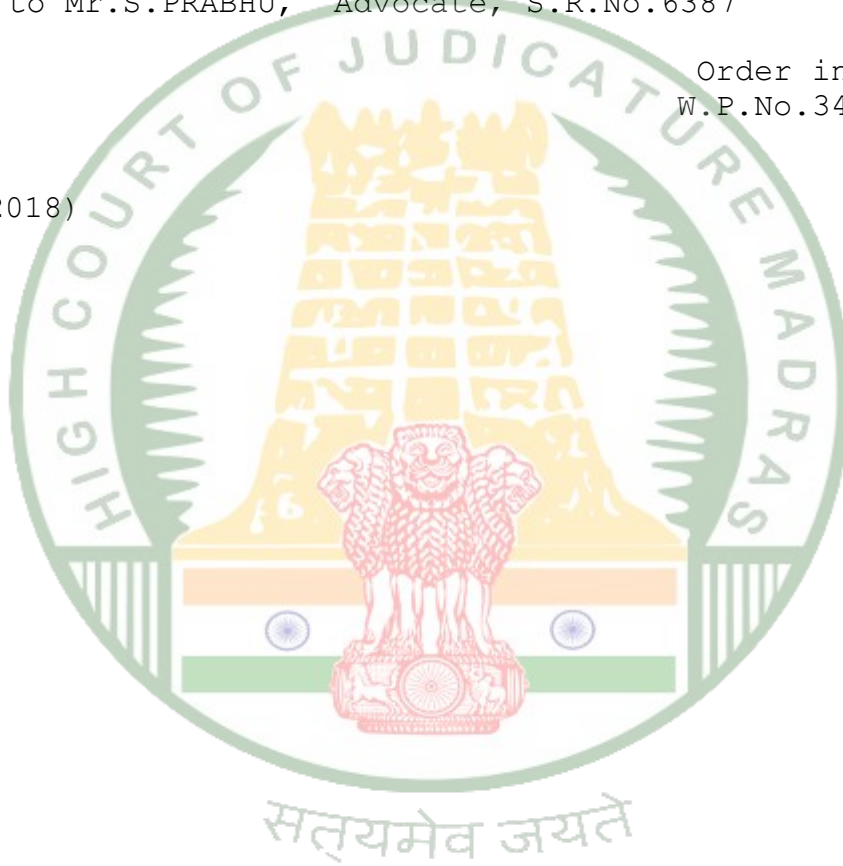
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5. The Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai 600 005.

+1cc to Mr.A.NAGARAJAN, Advocate, S.R.No.5608
+1cc to Mr.K.KULANDAIVELU, Advocate, S.R.No.5887
+1cc to Mr.S.PRABHU, Advocate, S.R.No.6387

Order in
W.P.No.34046 of 2017

PA(CO)
TR(19/02/2018)



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