

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.11.2018

Coram

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

W.P.No.22534 of 2018

Gunasekaran

.. Petitioner

Vs.

The Chairman,
Tamilnadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 600 005

..Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the Respondent to dispose of the representation dated 05.06.2017 of the Petitioner on merits which was given to provide two meter pathway to the Petitioner's property by removing the encroachment, within the time frame to be fixed by this Court.

For Petitioner : Mr.S.Arokia Muniraj for
M/s M.A.R.Pragash

For Respondent : Ms.S.Gomathi Lakshmi for
Mr.M.Rajasekar

O R D E R

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

Heard both sides.

2. No counter is filed on behalf of the Respondent.

3. According to the Petitioner, he entered into the Lease-cum-Sale Agreement in respect of Plot No.28 and paid the instalments amounts for nearly 20 years and secured a registered sale deed. In the plot, he had constructed a house during the year 1992 and he is residing along with his family till date. Since the Respondent had not executed the sale deed, earlier, he filed W.P.No.1297 of 2015 before this Court, whereby and whereunder he was directed to execute the sale deed and

ultimately, the sale deed came to be executed. In the said Sale Deed, the Respondent had given a pathway on the Eastern Side of Plot No.28. The said pathway was fully blocked and therefore, they could not use the pathway as mentioned in the sale deed. Hence the Petitioner made a representation to the Respondent on 07.07.2015 to clear the pathway and to facilitate him to have an ingress and egress without any hindrance to reach the road from Plot No.28.

4. The Petitioner filed a W.P.No.26873 of 2015 seeking necessary relief for taking appropriate action on his representation dated 07.07.2015. This Court, on 28.08.2015 had disposed of the said W.P.No.26873 of 2015, whereby a direction was issued to the Respondent / Tamilnadu Slum Clearance Board to pass appropriate orders on the representation of the Petitioner within a period of eight weeks from the date of receipt of a copy of this order. Since the Respondent had only removed some of the obstructions, thereby paving pathway to an extent of one meter for an 'Ingress' and 'Egress' to his property, he has filed the present Writ Petition before this Court praying for passing of an Order in directing the Respondent to dispose of the representation dated 05.06.2017 on merits.

5. Admittedly, the Petitioner is a Senior Citizen, aged about 68 years and even though on an earlier occasion, he had filed W.P.No.26873 of 2015 whereby an order dated 28.08.2015 was passed in his favour, yet, he is not in a position to ripe the benefits of the order in entirety. As a matter of fact, the Petitioner has a grievance that he must be provided with a two meter pathway to his property by taking the encroachment and his categorical stand is that the Respondent / Slum Clearance Board had only removed some of the obstructions, thereby paving pathway to an extent of one meter for ingress and egress to his property. In fact, the claim is made on behalf of the Petitioner that as per his Sale Deed dated 02.07.2015, he is entitled for two meter pathway as regards ingress and egress to his property.

6. Ordinarily, in respect of an Easementary Right, the Petitioner is to approach a competent Civil Court. However, considering the fact that the Petitioner on earlier occasion had filed W.P.No.26873 of 2015, on 28.08.2015 whereby and whereunder the Respondent was directed to consider the Petitioner's representation dated 07.07.2015 within a period of eight weeks from the date of receipt of a copy of this order and the same has not been fully complied with till today, this Court instead of driving the Petitioner to the competent Civil Court for redressal of his grievances, directs the Respondent to consider his representation dated 05.06.2017 in the teeth of the earlier order passed by this Court with all earnestness and seriousness in true letter and spirit, ofcourse, within a period of four

weeks from the date of receipt of copy of this order, failing which, it is open to the Petitioner to take further action [including the action for Contempt against the concerned Respondent / Deviant, if situation so warrants].

With the aforesaid observations, the Writ Petition is disposed of. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

ssd

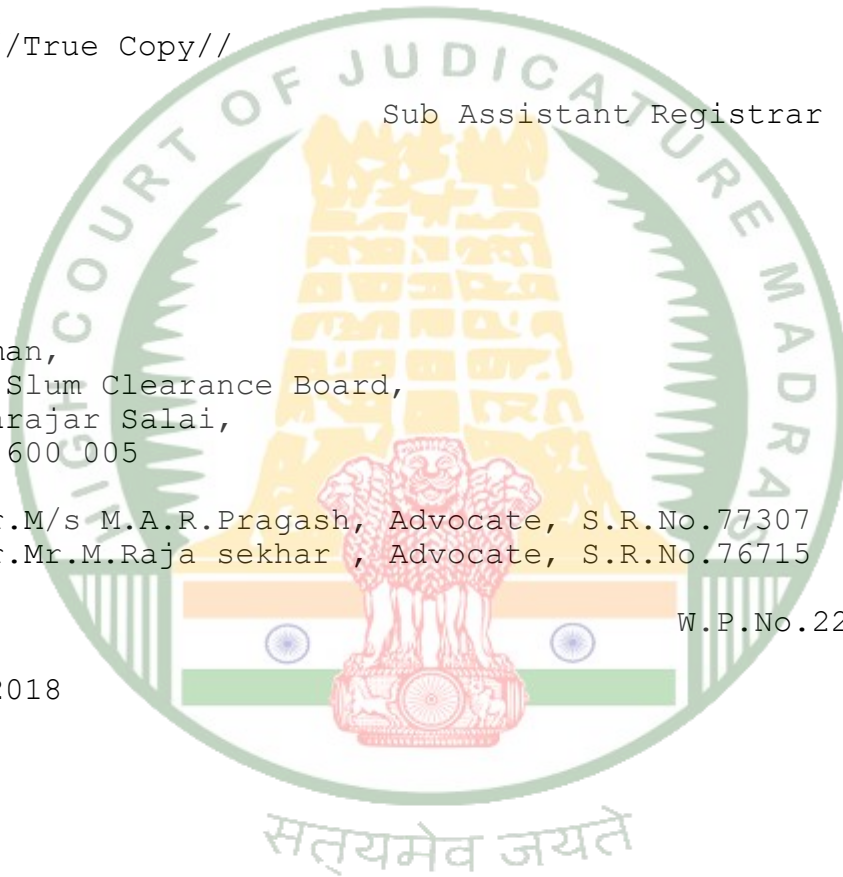
To

The Chairman,
Tamilnadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 600 005

+1cc to Mr.M/s M.A.R.Pragash, Advocate, S.R.No.77307
+1cc to Mr.Mr.M.Raja sekhar , Advocate, S.R.No.76715

W.P.No.22534 of 2018

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