

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2018

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.22538 of 2018
and
W.M.P.Nos.26393 & 26394 of 2018

Mr. Munusamy Petitioner

Vs.

1. The Chairman,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai,
Chennai - 600 021.
 2. The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai - 600 003.
 3. The Tahsildar,
Tondiarpet Taluk,
Chennai - 600 081
- ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus forbearing the 2nd respondent, their men, agents, servants or any other person acting through them from evicting the petitioner from the land situated at 38/4, Bharathi Nagar 6th street, Korukkupet, Chennai - 600 021, in S.No.1845/1 in admeasuring about 1800 sq.ft. Greater Chennai Corporation Limit without due process of law, consequently direct the respondents 1 to 3 to consider the petitioner's representation dated 01.02.2018 and pass appropriate order in consultation with the 1st respondent and in accordance with law.

For Petitioner : Mr. J.Venkatesa Perumal

For Respondents : Mr. S.Prabhu,
Standing Counsel for R1

: Mr.V.C.Selvasekaran,
Standing Counsel for R2

: Mr.S.Ramya Revathy,
for R3

O R D E R

This writ petition has been filed seeking a Writ of Mandamus forbearing the respondents from evicting the petitioners from the land situated at 38/4, Bharathi Nagar 6th street, Korukkupet, Chennai - 600 021.

2. According to the petitioner, he has been in possession and enjoyment of the said property to an extent of 1800 sq.ft. Earlier, he had filed a suit in O.S.No.4497 of 2008, seeking for a permanent injunction against the respondent-Corporation, before the VII Assistant City Civil Court, Chennai. Thereafter, the petitioner has approached the respondents 1 and 2 for allotment of the site. But so far no action has been taken. Now, the respondents are taking steps to construct a Mega Park very adjacent to his plot. Hence, the present writ petition has been filed.

3. The second respondent filed counter affidavit stating that, the land in dispute belongs to the Tamil Nadu Slum Clearance Board. Thereafter, at request of the respondent-Corporation, the land has been transferred to the Chennai City Municipal Corporation, for developing a park in the said land. Now, the respondent-Corporation is developing a Mega park, after getting necessary 'No Objection Certificate' from the concerned authorities and 75% work has been over.

4. The learned counsel for the petitioner would submit that the petitioner has been in possession for several years and even though the suit was dismissed for default, the respondent- Corporation so far has not passed any order on his representation.

5. Per contra, the learned counsel appearing for the respondent-Corporation would submit that now the land is being developed as Park and 75% of the work has been completed. Apart from that, the suit filed by the petitioner was dismissed and hence, now, it is not open to him to seek for allotment of the site.

6. I have considered the rival submissions and perused the materials available on record.

7. Originally, the land belongs to the Tamil Nadu Slum Clearance Board. Thereafter, it was transferred to the Chennai Corporation. Now, the Corporation is developing a park, according to Corporation, 75% of the work is over. The petitioner, being an encroacher of the land belongs to the respondents, cannot seek any remedy for allotment of the site, and also he cannot seek a direction to the respondents not to interfere with his possession, especially, when the suit filed by him was dismissed. Hence, the relief sought for by the petitioner cannot be granted.

8. Accordingly, this writ petition is dismissed No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

mrp

1. The Chairman,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai, Chennai - 600 021.

2. The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai - 600 003.

3. The Tahsildar,
Tondiarpet Taluk, Chennai - 600 081

+1cc to Mr.J.Venkatesa Perumal, Advocate SR.No. 87987

+1 CC TO GOVERNMENT PLEADER SR.NO.88410

+1cc to Mr.S.Prabhu, , Advocate SR.No. 88253

W.P.No.22538 of 2018

A.SK(19/02/2019)