

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.10.2018

CORAM
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.26836 of 2018
and
W.M.P.No.31184 of 2018

Nagavalli

... Petitioner

Vs.

- 1.Regional Deputy Commissioner (C)
Corporation of Chennai
Ripon Building,
Chennai.
- 2.Superintendent Engineer (C)
Corporation of Chennai
Ripon Building,
Chennai.
- 3.Zonal Officer - VI
Corporation of Chennai
Ripon Building,
Chennai.
- 4.Executive Engineer - VI
Division No.71, Unit No.06,
Zone - IV, Anderson Road,
Ayanavaram, Chennai.
- 5.Assistant Executive Engineer
Division No.71, Unit No.06,
Zone - IV, Anderson Road,
Ayanavaram, Chennai.
- 6.Principal Secretary/ Managing Director,
Tamil Nadu Slum Clearance Board,
Chepakkam, Chennai.

[R6 impleaded as per order
dated 12.10.2018 in
WMP.No.31686 of 2018]

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari Mandamus calling for the records of the proceedings on the file of respondents 1 in impugned order reference Z.O.V.I.C.No./3441/14/2018 dated 01.08.2018 to quash the same and to direct the first respondent to provide the alternative place for accommodation to the petitioner based on the representation dated 25.06.2018 under Section 222(2) City Municipal Act, 1919.

For Petitioner : Mr.B.Rajkumar Ashok Singh

For Respondents : Mr.R.Arunmozhi for R1 to R5
Mr.E.Prabhu for R6

O R D E R

(Order of the Court was made by R.SUBRAMANIAN, J.)

1. The challenge in this writ petition is to the proceedings of the 1st respondent dated 01.08.2018, in and by which, the 1st respondent had rejected the claim of the petitioner as to the ownership of the land and building situate at Door No.2/66 Othavadai street, Namalwarpet, Chennai.

2. According to the petitioner, she had purchased the said property under the sale deed dated 11th December 1979 from one Mrs.Jain Thumbi W/o.Abdul Subban Bai for consideration and that she had been in possession of the property right from the date of the said sale deed. While so, the 1st respondent issued a notice dated 18.04.2018 to the petitioner and others claiming that they had encroached upon the property belonging to the Greater Chennai Corporation. The said notice issued under Section 220 r/w.222 of the Chennai City Municipal Corporation Act, 1990 was challenged by the petitioner and another person before this Court in WP.No.12741, 12742 of 2018. By an order dated 13.06.2018, a Division Bench of this Court permitted the petitioner to submit a detailed representation and directed the 1st respondent herein who was also the 1st respondent in the said writ petition to consider the same and pass orders in accordance with law. A direction was also issued to defer the removal of encroachment till such time the representation is disposed of.

3. Pursuant to the said order the petitioner had made a representation on 25.06.2018. The 1st respondent however rejected the representation by his proceedings dated 01.08.2018 which is impugned in this writ petition.

4. Though the petitioner would claim ownership over the subject property, the 1st respondent had adverted to the documents filed by the petitioner and found that her claim for ownership is not true. The sale deed dated 11th December 1979 does not disclose the source of title of the vendor. The revenue records of the subject property stand in the name of the Corporation. The other documents which are produced by the petitioner would only show her possession and not her title. On arriving at the said findings, the 1st respondent rejected the representation of the petitioner. Aggrieved, the petitioner has come forward with the above writ petition seeking the prayer as aforesaid.

5. We have heard Mr.B.Rajkumar Ashok Singh, learned counsel for the petitioner and Mr.R.Arunmozhi, learned counsel for the respondents 1 to 5.

6. Mr.B.Rajkumar Ashok Singh, learned counsel appearing for the petitioner would strenuously contend that the petitioner is the owner of the property and as such the claim of the Corporation that the land belongs to the Corporation and the petitioner is an encroacher is not correct.

7. We are unable to countenance the said submission of the learned counsel. Inasmuch as the sale deed under which the petitioner claims title to the property dated 11th December 1979 does not disclose the source of the title of the vendor. Moreover, the revenue records admittedly continue in the name of the Chennai Corporation. The documents viz., the family card and aadhar card would only show the possession of the petitioner. We are therefore of the view that the challenge to the proceedings dated 01.08.2018 has to necessarily fail.

8. At this juncture the learned counsel appearing for the petitioner would submit that other persons who had also encroached upon adjacent properties were given alternative accommodation by the Tamil Nadu Slum Clearance Board. The petitioner has also filed an affidavit undertaking to vacate and handover possession of the property within a period of four months. An application to implead the Tamil Nadu Slum Clearance Board was also filed and the same was allowed on 12.10.2018.

9. Mr.E.Prabhu, learned counsel appearing for the Slum Clearance Board was also heard. The learned counsel appearing for the Slum Clearance Board would submit that the Slum Clearance Board would consider the application for allotment of alternative accommodation once the Corporation recommends such allotment.

10. Mr.R.Arunmozhi, learned counsel appearing for the Corporation would submit that if the petitioner makes a representation seeking alternative accommodation the Corporation will have no hesitation in recommending the same.

11. Considering the above, we pass the following directions.

- i) The writ petition will stand dismissed granting the petitioner three (3) months time from today to vacate and hand over possession of the property to the Corporation failing which the Corporation can evict the petitioner without any further notice.
- ii) The petitioner shall make a representation to the respondent seeking alternative accommodation and the respondents 1 to 5 shall recommend allotment for alternative accommodation to the petitioner to the 6th respondent. The 6th respondent Slum Clearance Board shall consider the application for allotment of alternative accommodation as it has been done for similarly placed persons.
- iii) It is made clear that the allotment by the Slum Clearance Board has nothing to do with the eviction of the petitioner and the petitioner shall abide by undertaking and hand over possession of the premises within a period of three (3) months without reference to the allotment by the Slum Clearance Board.

12. The writ petition is disposed of with the above directions. However in the circumstances there will be no order as to costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS III)

सत्यमेव जयते

//True Copy//

Sub Assistant Registrar

dsa

To

1.Regional Deputy Commissioner (C)
Corporation of Chennai
Ripon Building,
Chennai.

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2. Superintendent Engineer (C)
Corporation of Chennai
Ripon Building,
Chennai.

3. Zonal Officer - VI
Corporation of Chennai
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4. Executive Engineer - VI
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Division No.71, Unit No.06,
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6. Principal Secretary/ Managing Director,
Tamil Nadu Slum Clearance Board,
Chepakkam, Chennai.

+1cc to Mr.M.Rajkumar Ashok Singh, Advocate, S.R.No.70965

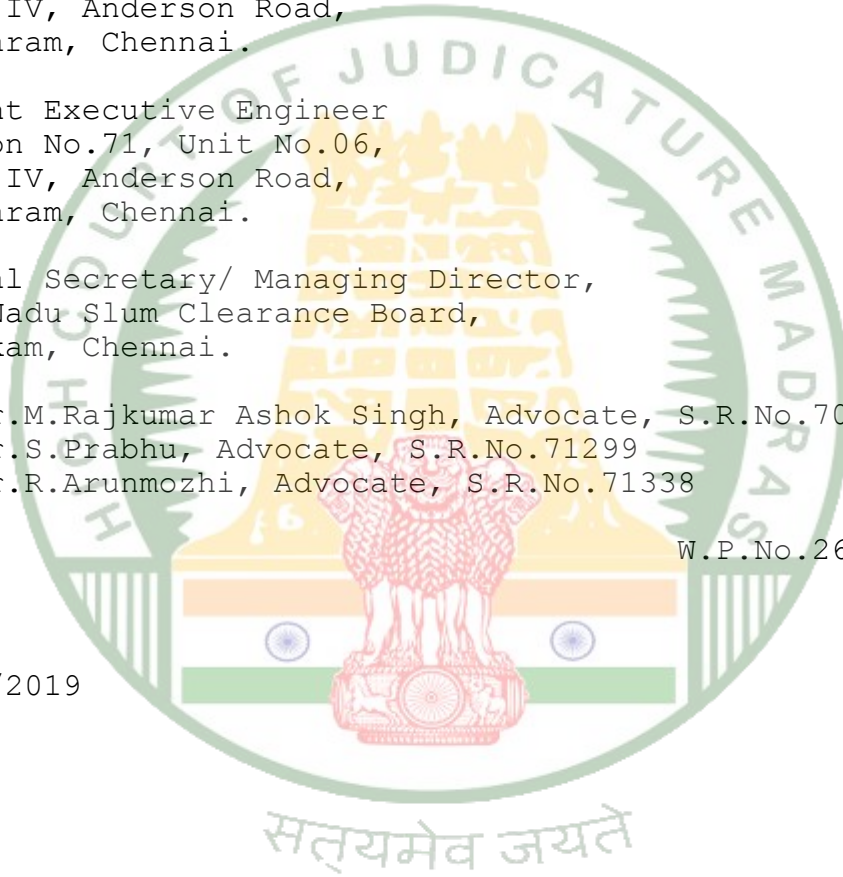
+1cc to Mr.S.Prabhu, Advocate, S.R.No.71299

+1cc to Mr.R.Arunmozhi, Advocate, S.R.No.71338

W.P.No.26836 of 2018

SVN (CO)

rrs 22/01/2019



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