



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD) No.6335 and 6336 of 2018
and
W.M.P.(MD) Nos.6187 to 6190 of 2018

D.Elizabeth ... Petitioner in W.P.6335/2018

R.Jeyakumar ... Petitioner in W.P.6336/2018

-vs-

The Corporation of Madurai,
rep. by its Commissioner,
Office of the Corporation of Madurai,
Madurai. ...Respondent in both petitions

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorafied Mandamus, calling for the records pertaining to the notice issued by the respondent vide his proceedings in Ma1/A9/001808/2018 dated 14.03.2018 and quash the same and further forbearing the respondent from evicting the petitioner from S.No.2, Ansari Nagar 4th Street, Mahaboobpalayam, Madurai.

For Petitioners : Mr.S.Karthick Subramanian

For Respondent : Mr.R.Prabhu Ramachandran, Standing
Counsel for the respondent in
WP(MD)No.6336 of 2018.

Mr.N.Shanmuga Selvam
Standing Counsel for the respondent
in WP(MD)No.6335 of 2018.

COMMON O R D E R

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

Heard Mr.S.Karthick Subramanian, learned counsel appearing for the petitioners and Mr.R.Prabhu Ramachandran, standing counsel accepting notice on behalf of the respondent Corporation.

2. The petitioners in both the writ petitions have challenged the show cause notices issued by the respondent Corporation, calling



upon them to give their objections as to why they should not be evicted from the place, where they are residing by putting up temporary structure.

3. Earlier, a writ petition was filed by one S.Ahraf Alikhan in W.P.(MD) No.194 of 2016. In the said writ petition, the encroachers were impleaded as Respondents 6 to 47 and the petitioner in W.P.(MD) No.6335 of 2018 was the 16th respondent. The respondents were represented by their counsel and after hearing the parties, the Court observed that if really alternate accommodation had been arranged or allotted by the Tamil Nadu Slum Clearance Board, the encroachers including the writ petitioners herein can be removed after issuing due notice. The Court also took note of the prejudice that will be caused to the encroachers, if they are uprooted immediately as it will cause prejudice to them as well as the family members and school going children. However, the Court observed that if they have been given alternate accommodation, the encroachers have to be vacated.

4. By way of implementation of the order passed by the Division Bench, the impugned notices have been issued. Therefore, the petitioners cannot resist the impugned notices nor challenge the impugned notices, more particularly, when the encroachers were parties to the earlier writ petition and they were heard and were represented by their counsel and were heard in the matter. Therefore, challenge to the impugned notices has to necessarily fail. We find that the petitioners have given their objections to the impugned notices vide their reply dated 21.03.2018, which is shown to have been sent by speed post on the very same day.

5. In the light of the direction issued by the Division Bench in the earlier writ petition, the respondents can be directed to consider the representation. However, no useful purpose would be served by once again passing another order. The exercise to be undertaken by the respondent Corporation should be in such a manner that they implement the earlier order passed by the Division Bench. Therefore, while rejecting the challenge to the impugned notices, we issue the following direction:

5.1. The respondent Corporation shall direct the encroachers including the petitioners to appear for a hearing and in the said hearing, the Executive Engineer of the Tamil Nadu Slum Clearance Board, Madurai should be asked to participate with full details as to in whose name alternate accommodation has been given. After conducting an enquiry and after ascertaining the names of the allottees, the respondent Corporation shall give 30 days time to the encroachers to move to the alternate accommodation. In cases, where alternate accommodation has not been granted to some of the encroachers, then the Tamil Nadu Slum Clearance Board should be directed to issue appropriate allotment orders and those encroachers should occupy the allotted place, within 30 days from the date of receipt of the allotment order by the Tamil Nadu Slum Clearance



Board. In the event, the encroachers do not comply with the direction issued by this Court in moving over to the alternate accommodation, then, the respondent Corporation shall evict them from the place in question. The above exercise shall be done by the Madurai Corporation in association with the Tamil Nadu Slum Clearance Board, within a period of 15 days from the date of receipt of a copy of this order. Till then, status quo prevailing as on date shall be maintained. Since the Tamil Nadu Slum Clearance Board, Madurai is not a party to the proceedings, we direct the Registry to issue a copy of this order to The Executive Engineer, Tamil Nadu Slum Clearance Board, Madurai Division, K.K.Nagar, Madurai 20.

6. These writ petitions are dismissed with the above directions. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar

To

1 The Commissioner,
Corporation of Madurai, Madurai.

2 The Executive Engineer,
Tamil Nadu Slum Clearance Board,
Madurai Division, K.K.Nagar, Madurai 20.

+1CC to Mr.S.Karthick Subramanian, Advocate, SR.No. 57594

+1CC to Mr.R. Prabhu Ramachandran, Advocate, SR.No. 57899

+1CC to Mr.N.Shanmuga Selvam, Advocate, SR.No. 57480

W.P.(MD) No.6335 and 6336 of 2018

and

W.M.P.(MD) Nos.6187 to 6190 of 2018

23.03.2018

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