

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2019

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P. Nos.2268 & 2269 of 2008

- 1.A.Pushparaj (deceased)
- 2.P.Ganamani
- 3.S.Jansi Rani
- 4.P.Arulraj
- 5.P.Jerlin

Petitioner 2 to 5 are substituted as Legal heirs of deceased petitioner

A.Pushparaj vide order made in W.M.P.No.24219 of 2019 dated 22.08.2019

...Petitioners in W.P.No.2268 of 2008

R.Ganapathy

...Petitioner in W.P.No.2269 of 2008

- 1.The Secretary
Mugappair West 6th Block People,
Welfare Association,
No.6, 127, Mugappair West,
Dr. J.J.Nagar West, Chennai-600 037
- 2.The Executive Engineer
and Administrative Officer,
Tamil Nadu Housing Board,
J.J.Nagar Division, Chennai-600 037
- 3.The Commissioner,
Ambattur Municipality
Ambattur, Chennai-600 053
- 4.The District Collector,
Tiruvallur District, Tiruvallur-600 120
- 5.The Tahsildar,
Ambattur Taluk, Ambattur, Chennai.
- 6.The Revenue Divisional Officer,
Tiruvallur District, Tiruvallur

.. Respondents in Both WPs

Common Prayer: These Writ Petitions have been filed under Article 226 of the Constitution of India, seeking issuance of a writ of Mandamus to direct forbearing the respondents from

disposing the petitioner from the Premises to the extent of 0.02.0 Hect. Out of 1.84.0 Hect. And 0.01.0 Hect, out of 0.56.0 Hect. In Survey No.488/3 and 490 respectively bearing Door No.25A, and extent of 0.01.0 Hect. Out of 0.56.0 Hect, in Survey No.490 situated within bearing Door No.26, Zion Street, Mugappair Village, Chennai- 600 037, Ambattur Firka, Ambattur Taluk, Tiruvallur District.

For Petitioner in both WPs : Dr.G.Krishnamurthy

For Respondents in both W.Ps : NA- for R1

Mr.R.Bharathkumar for R2

Mr.T.C.Gopalakrishnan

Standing counsel for R3

Mr.B.Anand

Government Advocate for R4 to R6

COMMON ORDER

These Writ Petitions have been filed for bearing the respondents from dispossessing the petitioners from the Premises to the extent of 0.02.0 Hect. Out of 1.84.0 Hect. And 0.01.0 Hect, out of 0.56.0 Hect. In Survey No.488/3 and 490 respectively situated within bearing Door No.25A, and extent of 0.01.0 Hect. Out of 0.56.0 Hect, in Survey No.490 situated within bearing Door No.26, Zion Street, Mugappair Village, Chennai- 600 037, Ambattur Firka, Ambattur Taluk, Tiruvallur District.

2.The petitioners would state that they were in possession of the land in Survey No.490 in Mugappair Village, Chennai and they have already paid 'B.Memo charges. The Revenue Authorities recognized the occupation of the petitioners and also provided electricity service connection to their property. While so, the Tamil Nadu Housing Board treated the petitioners as encroacher's and instructed to evict the said property. Though suits were filed before the District Munsif Ambattur in O.S.No.354 of 2007 and O.S.No.355 of 2007 and they obtained the order of status quo, the respondents evicted the petitioners and hence the Writ Petitions.

3.The respondents filed detailed counter affidavit, contending that the petitioners made encroachment in possession of the land in Survey No.490 by putting up the huts therein. Therefore, the 2nd respondent initiated eviction process and evicted the entire encroachment on 26.07.2007 by issuing notice as contemplated under Tamil Nadu Housing Board Act. It is further stated that both the suits filed by petitioners were dismissed for non-prosecution on 13.03.2014 and it is further stated that the Tamil Nadu Housing Board has

provided alternative site to the petitioners in W.P.No.2268 of 2008 in LIG-Type I in plot No.754 and also executed the sale deed in his favour. Even after allotment of the said plot from the Tamil Nadu Housing Board, the petitioners failed to vacate the premises.

4.Heard learned counsel on either side and perused the available materials.

5. It is not disputed that the petitioners have instituted Civil Suits in the year 2007 and they came to be dismissed on 13.03.2014. It is seen that when the suits were pending, the present Writ Petitions have been filed. In the counter affidavit, it has been stated that an alternative accommodation was provided to one of the Writ Petitioners. Further disputed question of facts cannot be decided in these Writ Petitions as it requires appreciation of evidence.

6.For the foregoing reasons, I find no merit in these Writ Petitions. In that view, the Writ Petitions are dismissed as devoid of merits. No Costs.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

vsn

To

- 1.The Secretary
Mugappair West 6th Block People,
Welfare Association,
No.6, 127, Mugappair West,
Dr. J.J.Nagar West, Chennai-600 037
- 2.The Executive Engineer
and Administrative Officer,
Tamil Nadu Housing Board,
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- 3.The Commissioner,
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Ambattur, Chennai-600 053
- 4.The District Collector,
Tiruvallur District, Tiruvallur-600 120
- 5.The Tahsildar,
Ambattur Taluk, Ambattur, Chennai.

6.The Revenue Divisional Officer,
Tiruvallur District, Tiruvallur.

+1cc to Mr.R.Bharathkumar, Advocate SR.72582
+1cc to the Government Pleader SR.72724

W.P. Nos.2268 & 2269 of 2008

PVS (CO)
CB(11/11/2019)



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