

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.26572 of 2008

and

M.P.No.1 of 2008

Residents of Elango Street
Corporation Ward No.149,
Raja Annamalaipuram,
Chennai-600 028.
rep.by S.Venkatesan

...Petitioner

Vs

1.The Government of Tamil Nadu
rep.by Secretary to Government,
Revenue Department,
Fort St.George, Chennai-600 009.

2.The Collector, Chennai City,
Office of the Collector of Chennai,
Rajaji Salai, Chennai-600 001.

3.The Tahsildar,
Mylapore-Triplicane Taluk,
Greenways Road,
Chennai-600 028.

4.The Government of Tamil Nadu
rep.by its Secretary to Government,
Public Works Department,
Fort St.George, Chennai-600 009.

5.M/s.Ramkrishnan Kulwant Rai
rep.by Rajiv Rai

...Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the State Government and its servants, the respondents 1, 2, 3 and 4 to implement the orders of the Government issued in G.O.(Ms) No.34 Revenue (LD1(2) Department) dated 23.01.2008 to issue the House Site Pattas to the petitioners who are owning the buildings constructed by them in Survey No.RS.3957/3, Mylapore Village for more than 5 years.

For Petitioner : No appearance

For Respondents : Mr.J.Ramesh, AGP for R1 to R4
Mr.G.R.M.Palaniappan for R5

O R D E R

When this writ petition was taken up on 20.12.2018, the learned counsel for the petitioner has submitted that he has no instructions from the petitioner. Hence it was directed to be posted on 02.01.2019 printing the name of the petitioner. Thereafter, this writ petition has been listed today. Today, there is no representation for the petitioner.

2.The matter is with regard to encroachment. This writ petition has been filed by one S.Venkatesan representing 1098 residents of Elango Street, Chennai-28. According to them, the land in question was allotted to them and hence they are not encroachers and that when the area is notified as slum, they cannot be evicted by any one much less the respondents in the writ petition.

3.The learned Additional Govt.Pleader appearing for the respondents 1 to 4 and the learned counsel for the fifth respondent have jointly submitted that the issue involved in the present writ petition is squarely covered by a decision of a Division Bench of this Court in W.P.No.31114 of 2017 dated 19.02.2018, wherein the deponent of this writ petition was also a party.

4.The petitioners in the writ petition in W.P.No.31114 of 2017 are also on the same footing as that of the residents in the present writ petition. The Division Bench, after considering the case in detail, has passed the order holding that the concerned 259 persons therein to whom the allotments are to be made by the Tamil Nadu Slum Clearance Board are encroachers. It has been held in the said judgment as under:

"24.Considering the submissions of the respective parties and upon perusal of the counter affidavits / status report / report filed by the respective respondents, this Court is of the view that the petitioners are encroachers and they are not entitled to reside / continue to occupy in the present place. It is open to the petitioners to take the alternative site provided by the Slum Clearance Board within a period of one month from the date of receipt of a copy of this order and occupy the place before 15th June 2018, as there is a possibility of the children of these encroachers, taking up examination in the months of March and April 2018.

25.Also, this Court makes it clear that, if no consent is given by any of the encroachers within the time stipulated supra, it is open to the concerned respondent to allot the site to some other person based on their seniority and that the petitioners cannot plead at a later date, that they have not been allotted alternative site. Further, this Court is of the view that there is suppression of facts by the violators, not only before this Court, but also before the Apex Court. However, taking note of the arguments advanced by the learned Junior Counsel in a pleasing manner, we are not inclined to impose any costs."

5.Since the date fixed by this Court for occupying the alternative site, viz. 15th June 2018, is already over, leaving it open to the authorities to proceed further in accordance with law, as per the observations made by this Court in W.P.No.31114 of 2017 dated 19.02.2018, this writ petition stands closed. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

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To

Sub Assistant Registrar

- 1.The Secretary to Government,
Government of Tamil Nadu
Revenue Department,
Fort St.George, Chennai-600 009.
- 2.The District Collector, Chennai City,
Office of the District Collector of Chennai,
Rajaji Salai, Chennai-600 001.
- 3.The Tahsildar,
Mylapore-Triplicane Taluk,
Greenways Road,
Chennai-600 028.
- 4.The Secretary to Government,
Government of Tamil Nadu
Public Works Department,
Fort St.George, Chennai-600 009.

+1 cc to the Government Pleader, S.R.No.3971

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and M.P.No.1 of 2008

PA(CO)
SSM(13/02/2019)