

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.NO.3752 OF 2019

AND

WMP.NO.4150 OF 2019

Devi

...Petitioner

Vs.

- 1.The Managing Director
Tamil Nadu Slum Clearance Board
No.5, Kamaraj Salai
Chennai-600 005.
- 2.The Estate Officer
Estate Office-6
Tamil Nadu Slum Clearance Board
Mylapore, Chennai-600 004.
- 3.The Executive Engineer - Marina
Reconstruction Division
Chennai-600 005.
- 4.The Inspector of Police
Mylapore Police Station
Chennai-600 004.
- 5.Thilagam

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to implement the order of the 1st respondent in Na.Ka.No.G6/8595/2015 dated 04.08.2015 within the time to be stipulated by this Hon'ble court.

For Petitioner : Mr.M.Vijayaragavan
For Respondents : Mr.B.S.Sundaramoorthi
Standing counsel for R1 to R3
Mr.B.Anandan
Government Advocate for R4

O R D E R

The petitioner seeks for a Mandamus directing the respondents 1 to 3 to implement the order of the 1st respondent in Na.Ka.No.G6/8595/2015 dated 04.08.2015.

2. Heard the learned counsel for the petitioner and perused the materials placed before this Court.

3. It is seen that there is a dispute between the petitioner and the fifth respondent with regard to the allotment and possession in respect of the premises at No.29, C-Block, Nochi Nagar, Tsunami Rehabilitation Scheme (Emergent) Slum Clearance Board, Mylapore, Chennai-600 004. Admittedly, a civil suit filed by the fifth respondent against the petitioner and the Tamil Nadu Slum Clearance Board in O.S.No.4878 of 2015 on the file of the III Assistant City Civil Court, Chennai, is pending.

4. The learned counsel for the petitioner contended that the pendency of such civil suit is not a bar for this Court to consider the present writ petition on the reason that the said suit is filed only for permanent injunction and not for declaration.

5. I do not think that the discretionary jurisdiction of this Court under Article 226 of the Constitution of India can be invoked by the petitioner by raising the above contention, when admittedly, the civil suit filed by the fifth respondent seeking for permanent injunction in respect of the very same property is pending before the Civil Court, where the claim of the respective parties over the possession has to be gone into by appreciation of evidence, incidentally also by going through the allotment order as well, this Court is of the view that all the contentions as raised by the petitioner herein can be raised before the Civil Court.

6. Accordingly, I find that the present writ petition is not maintainable and thus, the same is dismissed, without expressing any view on the merits of the claim made by the petitioner, as it is for her to raise all the objections before the Civil Court, where the suit is pending. It is stated that O.S.No.4878 of 2015 is pending before the III Assistant Judge, City Civil Court, Chennai. Since the said suit is of the year 2015, the trial Court is directed to dispose the suit on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

mk

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The III Assistant Judge,
City Civil Court, Chennai.

2.The Managing Director
Tamil Nadu Slum Clearance Board
No.5, Kamaraj Salai
Chennai-600 005.

3.The Estate Officer
Estate Office-6
Tamil Nadu Slum Clearance Board
Mylapore, Chennai-600 004.

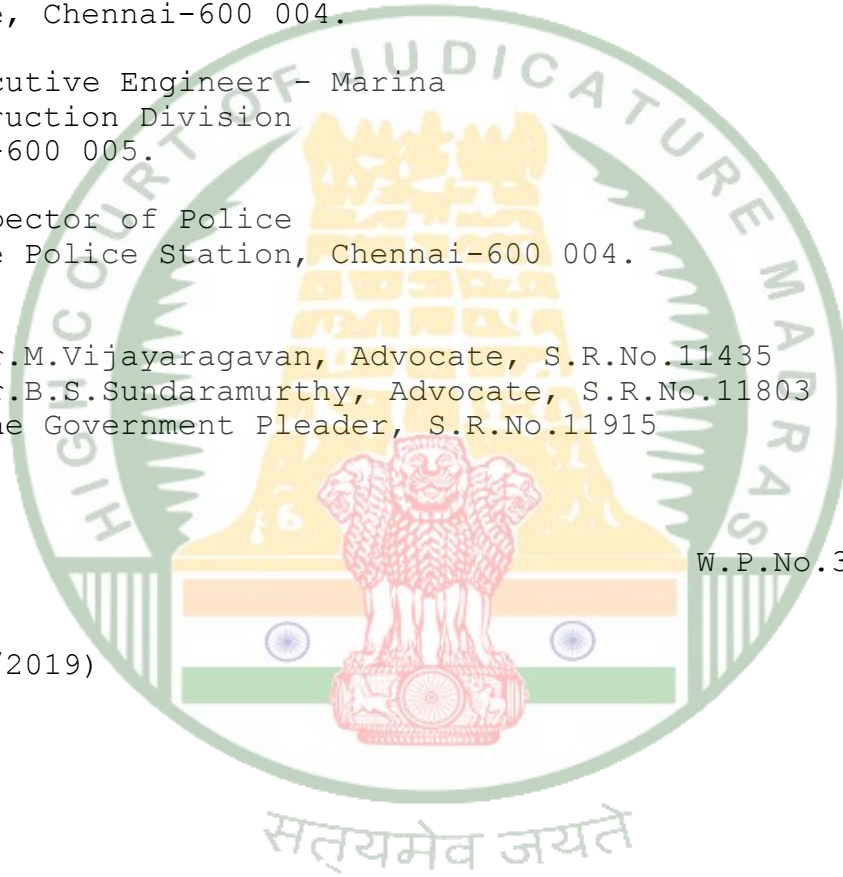
4.The Executive Engineer- Marina
Reconstruction Division
Chennai-600 005.

5.The Inspector of Police
Mylapore Police Station, Chennai-600 004.

+1cc to Mr.M.Vijayaragavan, Advocate, S.R.No.11435
+1cc to Mr.B.S.Sundaramurthy, Advocate, S.R.No.11803
+1cc to the Government Pleader, S.R.No.11915

W.P.No.3752 of 2019

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