

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.9820 of 2009

M.P.Nos.1 of 2019, 1 of 2010, 1 of 2013 and 1 of 2014

The Leigh Bazaar Merchants Association Ltd.,
Rep. By its Secretary,
Mr.Chandrasekaran
Leigh Bazaar,
Salem - 636 009 ... Petitioner

v.

1 State of Tamil Nadu,
Rep. By its Secretary,
Revenue Department,
Fort. St. George, Chennai - 600 009.

2 State of Tamil nadu,
Rep. By its Secretary,
Housing & Urban Development Department,
Fort. St. George, Chennai - 600 009.

3 The Chairman
Slum Clearance Board Kamaraj Salai,
Chennai - 600 004.

4. The Collector,
Salem

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue of Writ of Mandamus, forbearing the respondents from in any manner interfering with the possession and enjoyment of the petitioner Association in any part of the hands to the extent of 20.75 acres comprised in Old Survey No.164/A1, 165/A, 167/A, 169 and 170 (T.S.No.164 and 165) of Periyeri and Pallipatti Villages, Salem except in accordance with law.

For Petitioner : Mr.R.Thiagarajan, Senior Counsel
for Mr.Viaya Shankar

For Respondents : Mr.S.N.Parthasarathy
Govt. Advocate - For R1, R2 to R4

Mr.S.Prabu, Standing Counsel - for R3

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The above Writ Petition has been filed by the petitioner-Association to issue a Writ of Mandamus, forbearing the respondents from in any manner interfering with the possession and enjoyment of the petitioner-Association measuring an extent of 20.75 acres, comprised in Old Survey Nos.164/A1, 165/A, 167/A, 169 and 170 (T.S.No.164 and 165) of Periyeri and Pallipatti Villages, Salem except in accordance with law.

2. It is the case of the petitioner-Association that they are in possession and enjoyment of an extent of 20.75 acres comprised in T.S.No.164 and 165 of Periyeri and Pallipatti Villages, Salem and that the respondents are trying to evict them without following due process of law.

3. In the counter of the 3rd respondent, it has been stated that the assignment in respect of 7978 sq.ft. was cancelled by the Government in G.O.No.1064. Rev. dated 14.06.1983 and the Government had sanctioned the land to the Tamil Nadu Slum Clearance Board, vide G.O.173 (pt) Rev. Department, dated 25.05.2009, in Survey No.85/3, 8/5, 8/6, 110/1, totalling an extent of 0.6680.0 sq. meters, which were once Thotti Ooliam and subsequently re-classified as Government Poromboke, thereafter, alienated to Tamil Nadu Slum Clearance Board. Further, the 3rd respondent has stated that the said lands do not relate to the petitioner's land. Further, the 3rd respondent has specifically stated that T.S.No.165 is not concerned with the alienation made to Tamil Nadu Slum Clearance Board. The 3rd respondent has also reiterated in Paragraph No.9 of the counter affidavit that the alienation of the lands made in favour of the Tamil Nadu Slum Clearance Board do not relate to the petitioner-Association.

4. Mr.R.Thiagarajan, learned Senior Counsel, appearing for the petitioner submitted that the averments stated in the counter affidavit of the 3rd respondent may be recorded and the Writ Petition may be disposed of.

5. Mr. S. Prabu, learned Standing Counsel, appearing for the 3rd respondent submitted that liberty may be given to the 3rd respondent to remove the encroachment, if any, in accordance with law.

6. In view of the submissions made by the learned counsel on either side, recording the averments stated in the counter affidavit of the 3rd respondent, the Writ Petition is disposed of. However, it is open to the official respondents to evict the encroachers, if any, following the due process of law. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Rj

To

1 The Secretary,
Revenue Department,
Fort. St. George,
Chennai - 600 009.

2 The Secretary,
Housing & Urban Development Department,
Fort. St. George,
Chennai - 600 009.

3 The Chairman
Slum Clearance Board Kamaraj Salai,
Chennai - 600 004.

4. The Collector,
Salem

+1 cc to M/s.V.Vijaya Shankar, Advocate, S.R.No.57889

+1 cc to the Government Pleader, S.R.No.58312

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1 of 2013 and 1 of 2014

VBA (CO)
SSM(01/08/2019)