

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. Nos.20223 to 20228 of 2018 and

W.M.P. Nos. 23703 to 23714 of 2018

Mrs.M.Kasthuri .. Petitioner in W.P.No.20223/2018
P.Velkumar .. Petitioner in W.P.No.20224/2018
Mrs.Malar .. Petitioner in W.P.No.20225/2018
D.Dakshinamurthy .. Petitioner in W.P.No.20226/2018
G.Selvam .. Petitioner in W.P.No.20227/2018
A.Idumpandi .. Petitioner in W.P.No.20228/2018

vs.

- 1 The Deputy Commissioner (Central)
Corporation of Greater Chennai
Chennai - 600 009.
- 2 The Executive Engineer
Zone IX, Greater Chennai Corporation
No.1, 4th Cross Street
Nungambakkam
Chennai - 600 034
- 3 The Tamil Nadu Slum Clearance Board
Rep. by its Chairman
36. Anna Salai
Chennai - 35 .. Respondents in all WPs

Writ Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, calling for the records of the respondents comprised in impugned notices dated 24.07.2018 bearing reference Z.O.IX.C.No.E3/SPL/2018, quash the same as arbitrary, illegal, without jurisdiction, unconstitutional and consequently forbear the respondents from evicting the petitioners without allotting alternative site for their business to sustain their livelihood.

For Petitioners : Mr. S.Ramesh
(in all WPs)

For Respondents : Mr.R.Arunmozhi - for R1 & R2
(in all WPs) Mr.S.Prabhu - for R3

O R D E R

(Order of the Court made by The Hon'ble Chief Justice
and M.DURAIWAMY,J.)

Since the issue involved in all the Writ Petitions are identical and also the petitioners have challenged the impugned notices dated 24.07.2018, the Writ Petitions are disposed of by this common order.

2. The petitioners have filed the above writ petitions to issue a Writ of Certiorarified Mandamus to call for the records of the respondents in respect of the impugned notices dated 24.07.2018, to quash the same and consequently forbear the respondents from evicting the petitioners without allotting alternative site for their business to sustain their livelihood.

3. It is the case of the petitioners that they are having shops allotted by the Corporation of Chennai wherein, they are carrying on business in the place since 1972. It is also the case of the petitioners that the Corporation promised to allot alternate accommodation, however, they were not provided with the same till now.

4. According to the respondents, the petitioners have illegally encroached the properties belonging to the Corporation in violation of Section 222 of the Chennai City Municipal Corporation Act. Hence, they have issued notices dated 24.07.2018, under section 222 of the Chennai City Municipal Corporation Act, 1919.

5. The learned counsel appearing for the petitioners submitted that in W.P.No.20223 of 2018, the petitioner's grandfather was given a letter dated 13.03.1974 to the effect that he cooperated with the Tamil Nadu Slum Clearance Board for constructing new shops as per their plan and that he would be allotted alternate shop when the allotments are made. Further, in the said letter, the petitioner's grandfather also asked to keep the identity card with him safely for producing the same before the authorities. The learned counsel further submitted that since the petitioners were permitted to occupy the premises by virtue of the letter dated 13.03.1974, they cannot be termed as encroachers in respect of the shop portions. The petitioners are in possession of six shops in South Boag Road, T.Nagar, Chennai - 600 017.

6. On a perusal of the letter dated 13.03.1974, it is clear that no permission was given to the petitioners to occupy the shops in question. When no permission was granted by the Corporation to occupy the shops, they are not entitled to remain in possession forever.

7. The learned counsel appearing for the petitioners further submitted that the issuance of notice under Section 222 of the Chennai City Municipal Corporation Act is not applicable to the case on hand and it relates only to remove or alter any projection or objection in the premises.

8. However, Section 222 of the Chennai City Municipal Corporation Act, relates to removal of encroachment. On a reading of the same, it is clear that the Commissioner may by notice, require the owner or occupier of any premises to remove or alter any projection, encroachment or obstruction (other than a door, gate, bar or ground floor window) situated against or in front of such premises and in or, over, any street (or any public place, the control of which is vested in the Corporation).

9. Since section 222 of the Chennai City Municipal Corporation Act is also for removal of encroachments, the issuance of notices under the said provision is proper.

10. In these circumstances, we find no ground to interfere with the notices dated 24.07.2018. The Writ Petitions are liable to be dismissed. Accordingly, the same are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

Rj
To

- 1 The Deputy Commissioner (Central)
Corporation of Greater Chennai
Chennai - 600 009.
- 2 The Executive Engineer
Zone IX, Greater Chennai Corporation
No.1, 4th Cross Street
Nungambakkam
Chennai - 600 034

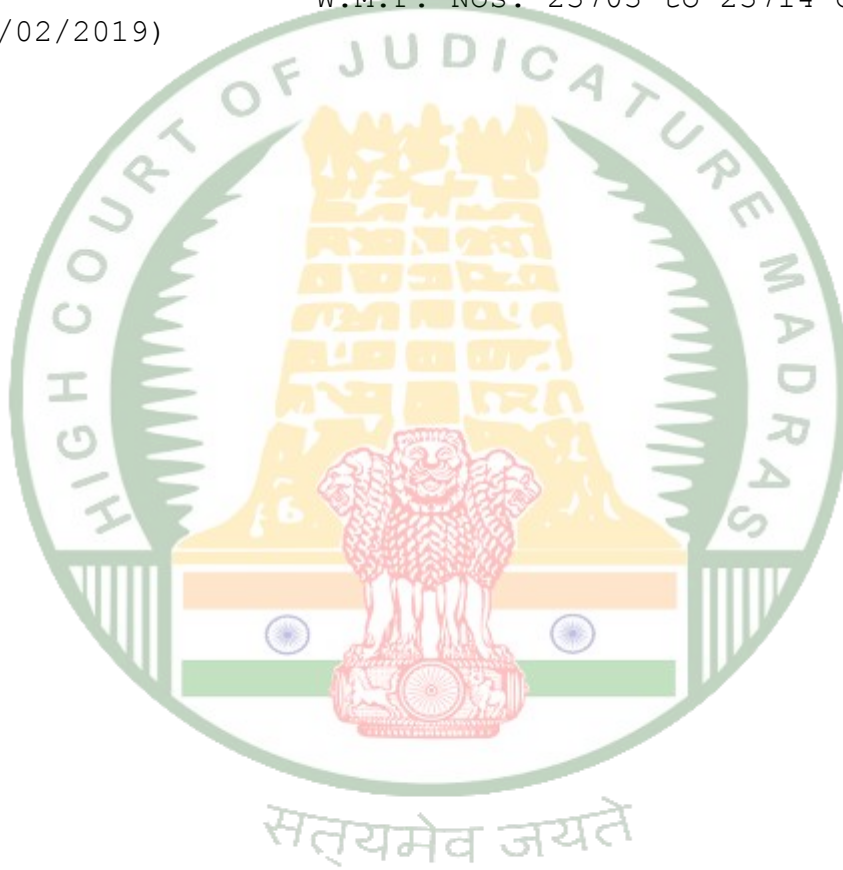
3 The Tamil Nadu Slum Clearance Board
Rep. by its Chairman
36. Anna Salai
Chennai - 35

+1cc to Mr.S.Ramesh , Advocate SR.No.8742

+1cc to Mr.S.Prabhu , Advocate SR.No. 8578

W.P. Nos.20223 to 20228 of 2018 and
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A.SK(21/02/2019)



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