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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2019

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

THE HON'BLE MR.JUSTICE M.DURAISWAMY

W.P.No.7281 of 2019

- 1 M.Vincent
- 2 J.R.D.Aruldoss
- 3 C.Sridharan .. Petitioners

Vs

- 1 The State of Tamil Nadu
Rep. by its Chief Secretary to Government
Fort St. George
Chennai - 600 009.
- 2 The Secretary to Government
Department of Revenue
Fort St. George
Chennai - 600 009.
- 3 The District Collector
Kanchipuram
Kanchipuram District.
- 4 The Tahsildar
Tambaram
Kanchipuram District.
- 5 The Principal Secretary to Government/
Chairman, Tamil Nadu Slum Clearance Board
5, Kamarajar Salai, Chepauk
Chennai - 600 005.
- 6 The Member Secretary
Chennai River Restoration Trust
"Adyar Eco Park"
No.6/103, Dr.D.G.S.Dinakaran Salai
Raja Annamalai Puram
Chennai - 600 028.



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The Engineer in Chief
(Water Resources Organisation)
and Chief Engineer (General)
Public Works Department
Chepauk, Chennai - 600 005.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of mandamus forbearing respondents 1 to 5 from the encroachment of Government poramboke Land measuring about 3.30 acres comprised in Survey No.403/3, situate at Old Perungalathur Village, Tambaram Taluk, Kanchipuram District (called the affected Adayar river land) and restore the said affected Adayar river land to its original position.

For Petitioners : Mr.M.Vicent
(Party-in-Person) Mr.J.R.D.Aruldoss
C.Sridharan

For Respondents : Mr.S.N.Parthasarathi
Government Advocate
for respondents 1 to 4, 6
and 7

Mr.S.Prabhu
for 5th respondent

ORDER

(Order of the Court was made by M.DURAISWAMY,J.)

The petitioners have filed the above writ petition as a public interest litigation to issue a writ of mandamus forbearing respondents 1 to 5 from evicting them from the encroachment of government poramboke land measuring about 3.30 acres comprised in Survey No.403/3, situate at Old Perungalathur Village, Tambaram Taluk, Kanchipuram District (called the affected Adayar river land) and restore the said affected Adayar river land to its original position.

2. It is the case of the petitioners that they are residing in the land in dispute in Survey No.403/3 and the authorities are taking steps to evict them from the said land.

3. The learned counsel appearing for the fifth respondent, i.e., the Tamil Nadu Slum Clearance Board,



submitted that the petitioners are encroachers and they have earlier filed W.P.Nos.18471 and 14881 of 2017 for the very same relief sought for in the present writ petition.

4. On a perusal of the prayer sought for in W.P.No.14881 of 2017, it could be seen that the third petitioner, i.e., C.Sridharan, has filed the said writ petition seeking for issuance of a writ of mandamus directing the official respondents to pay compensation for illegal eviction and demolition made by the Tamil Nadu Slum Clearance Board in consequence of the notice dated 24.5.2017 issued by them with regard to the land in Survey No.403/3, in accordance with the letter dated 17.4.2017 issued by the Tamil Nadu Slum Clearance Board. The writ petition in W.P.No.18471 of 2017 was filed by petitioners 1 and 2 herein and few others for the very same relief sought for in W.P.No.14881 of 2017.

5. A Division Bench of this Court, by order dated 20.2.2018, dismissed both the writ petitions finding that the third petitioner herein, i.e., C.Sridharan, is an encroacher and that even though it has not been averred in the counter, there are several shelters that have been constructed by the said C.Sridharan, who has given the same to others on rental basis. The Division Bench observed that an encroacher has no right to state that he has been illegally removed from the encroached place and that the encroachers cannot seek alternate place as a matter of right. In paragraph (15) of the order, the Division Bench recorded that the wife of C.Sridharan had been given alternate allotment and the documents produced by the Tamil Nadu Slum Clearance Board made it clear that the wife of C.Sridharan has got alternate accommodation from the Board. The Division Bench also recorded that some of the occupants, who were found to be residents, shall be given alternate accommodation by the Tamil Nadu Slum Clearance Board.

6. When the Division Bench of this Court had already dismissed the writ petitions filed by the petitioners herein on their personal capacity, the petitioners cannot file another writ petition for the very same relief as a public interest litigation. The filing of the earlier writ petitions itself would establish that the petitioners have got personal interest in the land in dispute and that no public interest is involved.

7. Further, it is brought to the notice of this Court that the petitioners have also filed a review petition seeking review of the order dated 20.2.2018 passed in W.P.Nos.18471 and 14881 of 2017 and the same was dismissed



by the Division Bench. It is also informed that the petitioners have not filed any appeal as against the order dated 20.2.2018 passed by the Division Bench.

8. When the Division Bench of this Court by order dated 20.2.2018 passed in W.P.Nos.18471 and 14881 of 2017 has categorically held that the petitioners are encroachers, we cannot give a different finding now in the present writ petition and, therefore, we are not inclined to entertain the writ petition.

In the result, the writ petition is dismissed. No costs. Consequently, W.M.P.Nos.7990, 7991 and 10591 of 2019 are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To:

- 1 The Chief Secretary to Government
State of Tamil Nadu
Fort St. George
Chennai - 600 009.
- 2 The Secretary to Government
Department of Revenue
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6 The Member Secretary
Chennai River Restoration Trust
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7 The Engineer in Chief
(Water Resources Organisation)
and Chief Engineer (General)
Public Works Department
Chepauk, Chennai - 600 005.

+2ccs to Mr.Vincent, Party-in-Person, S.R.No.59811
+1cc to the Government Pleader, S.R.No.59766

W.P.No.7281 of 2019

VBA (CO)

RRS (19/08/2019)