

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 9.1.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE Dr.JUSTICE ANITA SUMANTH

W.P.No.20585 of 2018
and
W.M.P.No.24197 of 2018

G.Arumugam

Petitioner

Versus

- 1 State Government of Tamil Nadu
Rep. by its Secretary
Land Administration Department
Fort St. George Chennai-600 009.
- 2 The District Collector
Salem District Salem.
- 3 The Executive Engineer
Tamil Nadu Slum Clearance Board
Salem.
- 4 The District Revenue Officer
Salem.
- 5 The Tahsildar
Edappadi Taluk
Salem District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus forbearing respondents 1 to 5 from constructing Slum Clearance Board houses at Survey Nos.234/1, 234/2, 234/3 at Edappadi Village, Salem District by disturbing the Water Bodies of Edappadi big lake.

For petitioner : Mr.S.Parthasarathy

For RR1, 2, 4 & 5: Mr.R.S.Suresh, Government Advocate

For R3 : Mr.S.Prabu, Standing Counsel

ORDER

(Order of the court was made by Dr.VINEET KOTHARI, J.)

Petitioner, G.Arumugam, Son of Govindha Gounder, a resident of Sarangatvalavu, Aalachampalayam Post, Edappadi Village and Taluk, Salem District, has filed this PIL writ petition in this court on 6.8.2018 with the following prayer:-

"writ of mandamus forbearing respondents 1 to 5 from constructing Slum Clearance Board houses at Survey Nos.234/1, 234/2, 234/3 at Edappadi Village, Salem District by disturbing the Water Bodies of Edappadi big lake."

2. Upon issuance of notice, the respondents have filed their counters. Respondent No.3, representing the Tamil Nadu Slum Clearance Board, Salem has filed his counter through Mr.Ravikumar, Son of Rajamanickam, working as Executive Engineer as also an affidavit filed by the Tahsildar Mr.V.Kesavan. The third respondent also filed additional counter today in the court.

3. The sum and substance of the counter filed by the respondents alongwith the sketch map indicates that the proposed Housing Scheme to be undertaken by the Slum Clearance Board is at the very premature stage and in the Additional Counter filed by the third respondent today i.e., on 9.1.2019, it has been stated that they are still seeking permission from the Revenue Department to enter into the land of an extent of 1.4 Hectares and the scheme for construction of 22 Blocks, each Block consisting of four floors and thus 352 Tenements is yet to take off. It is also stated in para 5 of the Additional Counter that the Lake (Eri) is situated nearly 1 km. away from the proposed construction site.

4. It is also stated in para 3 of the affidavit filed by the Tahsildar that the petitioner himself owns patta land in S.No.234/4 and 232 adjacent to the land in question which is earmarked for the proposed housing scheme and therefore, the respondent is also doubting the bona fide of the petitioner to file the present PIL writ petition.

5. The yellow line provided in the map is shown in the Revenue Record as Tharisu (vacant land). The proposed housing scheme also said to be undertaken in S.No.234/2 which is much beyond the Water Body marked in Blue in the said sketch map.

6. After hearing the learned counsel appearing for both sides, we are satisfied that the present petition filed by the

petitioner is certainly premature on an unfounded apprehension that the proposed construction by the Slum Clearance Board is on a Water Body. The said Water Body marked in Blue is not only stated as 'Odai' by Respondent No.3, but, it is contended that they are yet to get permission from the Revenue Department to enter into the land in question, marked in yellow in the sketch map. Thus, the relief claimed in the writ petition is not only premature, but appears to be on an unfounded apprehension of the petitioner.

7. In view of the above, we are not inclined to proceed further in the present PIL writ petition and we close the same without any further directions. No costs. The connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssk.

To:

1 State Government of Tamil Nadu
Rep. by its Secretary
Land Administration Department
Fort St. George Chennai-600 009.

2 The District Collector
Salem District Salem.

3 The Executive Engineer
Tamil Nadu Slum Clearance Board
Salem.

4 The District Revenue Officer
Salem.

5 The Tahsildar
Edappadi Taluk Salem District.

+1cc to Mr.S.Parthasarathy, Advocate, S.R.No. 2427

+1cc to Mr.S.Prabhu, Advocate, S.R.No. 2855

+1cc to the Government Pleader, S.R.No. 2762

W.P.No.20585 of 2018

PM(CO)
GN(07/02/2019)