

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

CORAM :

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

AND

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.22690 of 2018 and

W.M.P.No.26531 of 2018

Dr.Abdul Kalam Makkal Podu Nala Sangam,
Registration No.118/2018,
No.16, Manal Odai Street,
Lenin Nagar, Ambattur,
Chennai-600 053.

Rep. by its President M. Govindan

.. Petitioner

v.

- 1.The State of Tamil Nadu
Rep. by Secretary to Government
Revenue Land Administration Department,
Fort St. George,
Chennai-600 009.
- 2.The District Collector
Thiruvallur District, Thiruvallur.
- 3.The Thasildar
Ambattur Taluk,
Ambattur, Chennai-600 053.
- 4.The Chairman,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai,
Chennai- 600 005.

(R4 impleaded vide court order dated
06/12/2018 made in W.M.P.No.37532/18
in WP.No.22690/2018)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue of Writ of Mandamus, directing the second respondent to consider the representation of the petitioner dated 20.08.2018 in accordance with law by providing the House Plots at Survey No.450, situated at Manal Odai Street, Lenin Nagar, Thirumullaivoyal Village, Avadi Taluk, Thiruvallur District or to provide alternative houses to the 24 Hut Dwellers.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.v.Jayaprakah Narayanan,
Govt. Pleader (i/c) - for R1 to R3

Mrs. D. Latha,
Standing Counsel - for R4

ORDER

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

The petitioner association has filed the above Writ Petition to issue a Writ of Mandamus, directing the 2nd respondent to consider the representation of the petitioner dated 20.08.2018, in accordance with law, by providing the House Plots at Survey No.450, situated at Manal Odai Street, Lenin Nagar, Thirumullaivoyal Village, Avadi Taluk, Thiruvallur District or to provide alternative houses to the 24 Hut Dwellers.

2. The petitioner association has given a representation dated 20.08.2018 to the 2nd respondent to provide alternative accommodation to the 24 Hut Dwellers. Since the 2nd respondent did not consider the representation, the petitioner association has filed the Writ Petition.

3. When the Writ Petition came up for hearing on 25.03.2019, the learned Government Pleader (i/c), submitted that 24 Hut Dwellers were called for enquiry at Taluk Office, Avadi on 09.02.2019, however, they did not turn up for enquiry.

4. In order to give an opportunity to the Hut Dwellers, we directed the 24 Hut Dwellers to appear for enquiry at the Taluk Office, Avadi on 23.04.2019 at 11.00 a.m. Pursuant to the same, the 24 Hut Dwellers appeared for enquiry on 23.04.2019 and submitted their statements.

5. On perusing the materials submitted by the Hut Dwellers, the Tahsildar, Avadi, by order dated 29.05.2019, rejected the representation submitted by the petitioner association finding that the land in Survey No.450 is an

objectionable Poramboke land classified as "Vandipattai" and that the encroachments made in the said land were removed and the encroachers have also occupied the alternative accommodation. Further, the Tahsildar has stated that since the land comes within the Chennai City Limit (Belt Area), alternative accommodation cannot be given to the 24 Hut Dwellers. Further, the Tahsildar has stated that if the petitioner association is aggrieved over the order dated 29.05.2019, they can file an appeal before the Sub Collector, Thiruvallur, within 30 days.

6. The learned counsel appearing for the petitioner submitted that the correctness of the order dated 29.05.2019 should be gone into in this Writ Petition.

7. Since the prayer sought for in the Writ Petition is only for issuance of Mandamus to consider the representation which was rejected by the Tahsildar, Avadi, we are of the considered view that the remedy open to the petitioner association is only to file an appeal as stated in the order dated 29.05.2019 of the Tahsildar before the Sub Collector, Thiruvallur. Hence, the contention of the learned counsel for the petitioner cannot be accepted.

8. Since the Tahsildar, Avadi has considered the petitioner association's representation dated 20.08.2018 and passed the order on 29.05.2019, the relief sought for in the Writ Petition has become infructuous. Accordingly, the Writ Petition is dismissed as infructuous. However, it is open to the petitioner to challenge the order passed by the Tahsildar, Avadi before the Sub Collector, Thiruvallur, in accordance with law. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

Rj

To

1. The Secretary to Government
State of Tamil Nadu
Revenue Land Administration Department,
Fort St. George,
Chennai-600 009.

2.The District Collector
Thiruvallur District, Thiruvallur.

3.The Thasildar
Ambattur Taluk,
Ambattur, Chennai-600 053.

4.The Chairman,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai, Chennai- 600 005.

+1cc to Mr.R.Sankarasubbu Advocate, S.R.No.70794
+1cc to Mr.D. Latha Advocate, S.R.No. 70314
+1cc to the Government Pleader, S.R.No.70861

CP(CO)
CB(27/09/2019)

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