



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 01.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.3460 of 2019

and

W.M.P (MD) .Nos.2723, 2724, 2725 and 4146 of 2019

WEB COPY

Arumugam

... Petitioner

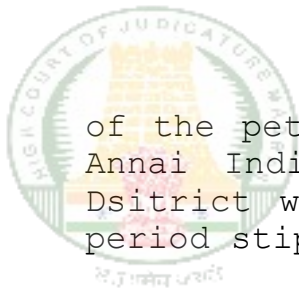
Vs

- 1.The Tamil Nadu Slum Clearance Board,
Rep., by its Chairman,
No.5, Kamarajar Salai,
Chepauk, Chennai-600 005.
- 2.The District Collector,
Madurai District,
Madurai.
- 3.The Superintending Engineer,
The Tamil Nadu Slum Clearance Board,
No.169, K.K.Nagar, Main Road,
Opp Jawahar Hospital,
Madurai-625 020.
- 4.The Executive Engineer,
The Tamil Nadu Slum Clearance Board,
No.169, K.K.Nagar, Main Road,
Opp Jawahar Hospital,
Madurai-625 020.
- 5.Muthulakshmi
- 6.Pattalammal
- 7.Muneeswari
- 8.Kumutha
- 9.Shanthi

... Respondents

(R5 to R9 is impleaded vide order dated 01.04.2019 in W.M.P(MD) .
No.5388 of 2019 in W.P(MD).No.3460 of 2019)

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned eviction notice dated 27.08.2018 on the file of the fourth respondent and quash the same as illegal and consequently forbear the respondents from evicting the members



of the petitioner society from their respective houses in S.No.963 Annai Indira Nagar, Manjal Medu New Colony, Arapalayam, Madurai District without following the due process of law within the time period stipulated by this Court.

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For Petitioner : Mr.T.Lajapathi Roy
For R1 & R2 : Mr.M.Rajarajan
Government Advocate
For R3 & R4 : Mr.P.Mahendran
For R5 to R9 : Mr.S.Sethuraman

ORDER

Heard the learned counsel on either side.

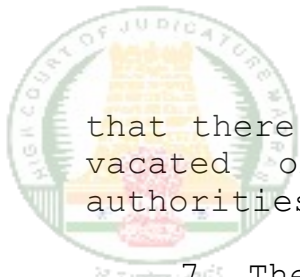
2. The petitioner is one of the occupants of the flats constructed by the Tamil Nadu Slum Clearance Board in S.No.963 in Annai Indira Nagar, Manjal Medu New Colony, Arapalayam, Madurai District. It is not in dispute that the flats were constructed way back in the year 1988-1989. More than three decades have elapsed. According to the authorities, the buildings are in a dilapidated condition and that they will have to be demolished and a new construction made in their place. Therefore, the Board issued notices calling upon the occupants to vacate their respective apartments. The said notice is under challenge in this writ petition.

3. When the matter was taken up for hearing, the learned Standing Counsel brought to my notice that the writ petitioner himself has given a representation on 01.03.2018 informing the authorities that the buildings are in a dangerous condition and in the last week of February 2018, a woman was injured on account of collapse of a portion of the buildings structure.

4. When a building is in a dangerous condition, it is the duty of the authorities to have the same pulled down. The occupants will have to comply with any notice issued by the authorities in this regard in the interest of their own safety. This Court shall presume that the condition described in the impugned notice must be true in view of the sheer lapse of time from the date of construction and the present date. Therefore, I am of the view that there is no merit in the writ petition and it has to be necessarily dismissed. Interim stay earlier granted stands vacated.

5. The matter cannot rest there. The very object of putting up a construction is to accommodate the homeless poor. Therefore, the authorities should not stop with merely pulling down the dilapidated old structure, it is their duty to erect a new building in the place of the old structure as early as possible.

6. The learned Standing counsel state that the entire reconstruction will be completed within one year from the date of commencement. But the question is when it will start. It appears that due to the pendency of this writ petition and the objection of some of the occupants, the proposal could not take off. It is seen



that there were as many as 300 occupants. 174 persons have already vacated on their own. This Court permits the respondents authorities to enforce the order to vacate the occupants.

7. The authorities will issue a fresh notice calling upon the occupants to vacate the premise in question. The occupants will be given eight weeks to vacate the premises. The process of reconstruction should commence not later than Aug-2019. Whatever contribution that may have to be made by the occupants will have to be made. So that they are eligible for being allotted a new flat, after the reconstruction is over.

8. It is made clear that after the reconstruction is over, the new flats will be allotted only to the old allottees/legal heirs. It is not open to the writ petitioner to object that the Slum Clearance Board should rebuild only 300 units in place of the old 300 units. It is open to the Board to build 320 units as now proposed.

9. With these directions, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (w)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk, Chennai-600 005.

2.The District Collector,
Madurai District,
Madurai.

+1cc to Mr. S.SETHURAMAN, Advocate, SR.No. 58206
+1cc to Mr.P.MAHENDRAN, Advocate, SR.No. 58194
+1cc to M/s.Special Government Pleader, SR.No.59339

W.P. (MD) No.3460 of 2019

RMK

KK/SAR/29.04.2019/ 3P- 6C