



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.24699 & 47877 of 2006
and M.P.No. 2 of 2006

W.P.No. 24699 of 2006

1. Zaunab Bai
2. Zohara Bai
3. Mohd.Zainulabdeen Sait
4. Fathima Bai
5. Mohd.Ismail
6. Mohd.Younus
7. Miss Nafisa Banu
8. Mohd.Khader Sait
9. Abdul kader Sait
10. Mohd.Hashim

Petitioners are represented by their
General Power of Attorney
Mohammed Ismail.

... Petitioners

-Vs-

1. The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai-600 005.
2. The Director of Survey & Settlements,
Chepauk, Chennai-600 005.
3. The Collector of Chennai District
Office of the Collectorate,
Chennai-600 001.
4. The Tahsildar,
Egmore Nungambakkam Taluk,
Chennai-8.

... Respondents

W.P.No. 47877 of 2006

1. Zainab Bai
2. Zohara Bai
3. Mohd.Zainulabdeen Sait
4. Fathima Bai
5. Mohammed Ismail
6. Mohammed Younus



7. Nafisa Banu
8. Mohammed Basheer
9. Abdul Khader Sait
10. Mohammed Hashim
Petitioners are represented by their
General Power of Attorney
Mohammed Ismail.

... Petitioners

-Vs-

Tamil Nadu Slum Clearance Board,
Represented by its Chairman,
Having its office at No.5, Kamarajar Salai,
Chennai-600 005.

... Respondent

Prayer in W.P.No. 24699 of 2006:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for records from the first respondent herein pertaining to R.Dis(K1) R.P.1/03 and to quash the order dated 20.10.2005.

Prayer in W.P.No. 47877 of 2006:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining to G.O.No.8942 Tamil Nadu Slum Clearance Board and to quash the Notification dated 02.12.1974.

W.P.No. 24699 of 2006

For Petitioners: T.Dhanasekaran
For Respondents: Mr.M.R.Gokul Krishnan,
Government Advocate.

W.P.No. 47877 of 2006

For Petitioners: T.Dhanasekaran
For Respondent : M/s D.Latha,
Standing Counsel for TNSCB.

COMMON ORDER

W.P.No. 24699 of 2006 has been filed to issue a Writ of Certiorari, calling for records from the first respondent herein pertaining to R.Dis(K1) R.P.1/03 and to quash the order dated 20.10.2005.

2. W.P.No. 47877 of 2006 has been filed to issue a Writ of Certiorari, calling for the records pertaining to G.O.No.8942 Tamil Nadu Slum Clearance Board and to quash the Notification dated 02.12.1974.

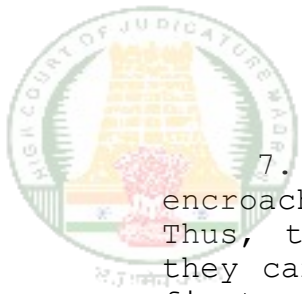


3. In both the Writ Petitions, the case of the petitioners is that their father is the absolute owner of the property comprised in S.No.46, Block No.19 in Puliyur Village ad-measuring 0.08 cents. Their father prepared a layout for the said land with blind lanes and it was approved, and it is called as ''Zacharia Colony''. He also sold out the plots except few. After the sale of the plots for housing plot which was not sold, he was granted patta in Patta No.180. However, the Assistant Settlement Officer issued an order dated 17.08.1959, in which S.No.46 in Block No.19 was left out.

4. In the meanwhile, the third parties encroached the said portion and as such, their father had lodged a complaint before the jurisdiction police to remove the encroachments. Their father was asked to appear before the Assistant Settlement Officer and he had given his statement. However, his request was rejected and thereafter, he died on 28.04.1983. Therefore, the legal heirs i.e., the petitioners filed an appeal before the Director of Survey & Settlements, Chempauk. However, it was dismissed and aggrieved by the same, a Revision was filed before the first respondent. It was also dismissed and aggrieved by the same, the petitioners filed a writ petition before this court in W.P.No.6790 of 2000, and this Court by an order dated 22.03.2002 directed to remand back the matter for fresh consideration.

5. On perusal of the records, it revealed that the petitioners' father had purchased the lands for formation of housing site and it was approved by the Saidapet Municipality. The land comprised in T.S.No.46, Block.19 was shown as Lane during the settlement enquiry which was conducted during the year 1959.

6. The petitioners' father deposed that he has purchased an area of 22.68 acres and laid out as house plots up to 424 grounds. He sold out all except 32 grounds and 647 sq.ft. When the layout was approved and some areas were left for Road etc., for public purpose. Therefore, the father of the petitioners cannot claim it back, which was left out as a Road in the approved layout. That apart, it is not their case that their father produced the revised layout plan, in which the subject land has re-converted as housing site. Therefore, the subject property was shown as a blind road in the layout and their father had not claimed patta for this land including the other lands, which were shown as Road in the layout. Thereafter, only in the year 1965, their father approached the Collector for issuance of patta, that too, for the reason that others encroached in the said lands. It stood registered as 'Government Poramboke' and his request was rejected.



7. Thereafter, the said land was assigned to the encroachers and regularized the encroachment by granting patta. Thus, the subject property in this petition is patta land and they cannot question the order of the Collector. Therefore, the first respondent has rightly dismissed their revision and this Court finds no infirmity or illegality in the order passed by the first respondent. Accordingly, W.P.No.24699 of 2006 is dismissed.

W.P. No.47877 of 2006

8. This writ petition has been filed for the very same property, which is the subject plots in W.P. No.24699 of 2006 on the ground that their father was never issued any legal notice prior to the notification as Slum and challenged in G.O.Ms.No.8942, which was issued on 02.12.1974. Whereas the impugned order in the said writ petition dated 24.03.2003 communicated by the respondents thereby stated that the subject land declared as Slum Area by the G.O.Ms.No.8942 dated 02.12.1974.

9. On perusal of the counter filed by the respondent revealed that after the declaration of the land as slum area, the occupants are living in the said land for more than 40 years and it has been declared as notified slum. The Tamilnadu Slum Clearance Board has erected 24 fire proof shed with ACC sheet roofing in the year 1998-2000 to avoid fire accidents. Therefore, the notification issued in the year 1974 is under challenge in this writ petition, that too after a period of more than 30 years.

10. In view of the order passed in W.P.No.24699 of 2006, this court finds no merits in this writ petition. Accordingly, W.P.No.47877 of 2006 stands dismissed. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

lpp/mn

To

1. The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai-600 005.



2. The Director of Survey & Settlements,
Chepauk, Chennai-600 005.

3. The Collector of Chennai District
Office of the Collectorate,
Chennai-600 001.

4. The Tahsildar,
Egmore Nungambakkam Taluk,
Chennai-8.

5. The Chairman,
Tamil Nadu Slum Clearance Board,
Having its office at No.5, Kamarajar Salai,
Chennai-600 005.

+1cc to Mr.T.Dhanasekaran, Advocate, S.R.No.45394

+1cc to M/s.D.Latha, Advocate, S.R.No.44918

+1cc to the Government Pleader, S.R.No.45178

W.P.Nos.24699 & 47877 of 2006
and M.P.No. 2 of 2006

PCH(CO)
CB(06/10/2021)