



WP No.7748 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA , CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

WP No.7748 of 2021

R.Kirubakaran : Petitioner

versus

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

2.The District Collector,
Tiruvallur District

3.The Superintendent of Police,
Tiruvallur District

4.The Municipal Commissioner,
Avadi Municipality

5.The Tahsildar,
Avadi Taluk

6.Mariya Pushpam

7.Mohideen Abdul Kadhar : Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 to 5 consider the petitioner's representation dated 25.02.2021 and consequently direct respondents 1 to 5 to remove the encroachment from Darga Street to Kamarajar Street, Chozhan Nagar, Avadi Taluk, Tiruvallur District as per the proceedings of the 4th respondent in Na.Ka.No.9351/2016/F1 dated 03.08.2016.

For the Petitioner : Mr.P.Manikannan

For the Respondents : Mr.S.Karthikeyan,
for respondent No.1

Mr.P.Muthukumar,
State Government Pleader,
for respondent Nos.2, 3 & 5

Mr.R.Gopinath, for respondent No.4

Mr.V.Sundarraman, for respondent No.6

No appearance for respondent No.7

ORDER

(Made by the Hon'ble Chief Justice)

Heard Mr.P.Manikannan, learned counsel for the petitioner;
Mr.S.Karthikeyan, learned counsel for the first respondent,
Mr.P.Muthukumar, learned State Government Pleader, for respondents
2, 3 and 5; Mr.R.Gopinath, learned counsel for the fourth respondent
and Mr.V.Sundarraman, learned counsel for the sixth respondent.



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2. According to the learned counsel for the petitioner, a 10 feet wide pathway exists in S.No.651, Cholan Nagar, Thirumullaivoyal Village, Ambattur Taluk, Tiruvallaur District and that respondent No.6 has encroached upon the same.

3. The report of the Tahsildar suggests that there is no encroachment; whereas as per the contention of the first respondent, the encroachment exists. The entire area is under the Slum Clearance Board.

4. The contention of respondent No.6 is that respondent no.6 is the owner of Plot No.19 in S.No.651 and that after obtaining necessary permission, construction is carried out.

5. Disputed questions of facts exist in the matter. Considering the contrary contentions of all the parties, it is not possible to arrive at a definitive conclusion about encroachment. If the area is under the Tamil Nadu Slum Clearance Board, it is for the Board to take appropriate steps.



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6. In fact, measurement is required to be carried out by the concerned parties for arriving at the encroachment or otherwise on the pathway. It is for the authorities to take necessary steps in that regard. Of course, while carrying out the measurement, notices will have to be given to all the concerned parties. The authorities may take action in accordance with law with regard to the alleged encroachment or otherwise.

7. The writ petition is disposed of. There will be no order as to costs. Consequently, WMP No.22991 of 2023 is closed.

(S.V.G., CJ.)

(P.D.A., J.)

09.08.2023

Index : Yes/No
Neutral Citation : Yes/No
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