



W.P.Nos.5609 of 2018 and 26900 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2023

CORAM :

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

AND

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

W.P.Nos.5609 of 2018 and 26900 of 2023

W.P.No.5609 of 2018:

Pon.Thangavelu

.. Petitioner

Vs

- 1 The Commissioner
Corporation of Chennai
Chennai - 600 003.
- 2 The Commissioner of Police
O/o.The Commissioner of Police
Chennai Metropolitan City
Vepery, Chennai – 600 007.
- 3 R.Muthukrishnan
- 4 S.Shanmugam
- 5 G.Annadurai
- 6 J.V.Muthu
- 7 B.Sivalingam
- 8 Harikrishnan
- 9 Renugadevi
- 10 V.Neduncheziyan
- 11 Y.Suresh (Deceased)
- 12 T.Kamaraj



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- 13 Murugan
- 14 Pushparani
- 15 Gengadharan
- 16 Durai
- 17 Divakar
- 18 Josephine Malathi
- 19 S.Pradeep Roopan
- 20 Perlin Mary
- 21 Devanesam

.. Respondents

(Respondents 18 to 21 are substituted
as legal heirs of deceased 11th respondent
vide order dated 25.7.2018)

Prayer in W.P.No.5609 of 2018: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing respondents 1 and 2 to clear all the encroachments in the government land in Survey Nos.247, 249, 253/2 of Injambakkam Village encroached by respondents 3 to 17.

W.P.No.26900 of 2023:

Parthasarathy Durai

.. Petitioner

Vs

1. The Commissioner
Greater Corporation of Chennai
Chennai – 600 003.
2. The Zonal Officer
Zone 15, Corporation of Chennai
Chennai – 600 115.

.. Respondents

Prayer in W.P.No.26900 of 2023: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus to forbear respondents 1 and 2 from evicting the petitioner from the



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property situated in Door No.2/187, Hanuman Colony, comprised in S.No.249, Injambakkam Village in Sholinganallur Taluk in Chennai District, without following the due process of law.

For the Petitioner in : Mr.P.Amarnath
W.P.No.5609 of 2018

For the Petitioner in : Mr.C.Vigneswaran
W.P.No.26900 of 2023

For the Respondents : Mr.Bharath gowtham
for Ms.Aswini Devi
for 1st respondent in
W.P.No.5609 of 2018 and
respondents in W.P.No.26900
of 2023
: Mrs.R.Anitha
Special Government Pleader
for 2nd respondent in
W.P.No.5609 of 2018
: Mr.R.Anandha Babu
for respondents 5 to 9 in
W.P.No.5609 of 2018
: Ms.D.Malarvizhi
for respondents 3 and 4 in
W.P.No.5609 of 2018
: Mr.K.Ashok Kumar
for 13th respondent in
W.P.No.5609 of 2018
: Ms.A.Lakshmi
for respondents 10, 18, 19,
20 in W.P.No.5609 of 2018
: Mr.M.Kamalanathan
for 12th respondent in
W.P.No.5609 of 2018
: 11th respondent (died)



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COMMON ORDER

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We have heard Mr.P.Amarnath, learned counsel for the petitioner in W.P.No.5609 of 2018; Mr.C.Vigneswaran, learned counsel for the petitioner in W.P.No.26900 of 2023; Mr.Bharath Gowtham, learned counsel for the first respondent in W.P.No.5609 of 2018 and respondents in W.P.No.26900 of 2023; Mrs.R.Anitha, learned Special Government Pleader for the second respondent in W.P.No.5609 of 2018; Mr.R.Anandha Babu, learned counsel for respondents 5 to 9 in W.P.No.5609 of 2018; Ms.D.Malarvizhi, learned counsel for respondents 3 and 4 in W.P.No.5609 of 2018; Mr.K.Ashok Kumar, learned counsel for the 13th respondent in W.P.No.5609 of 2018; Ms.A.Lakshmi, learned counsel for respondents 10, 18, 19 and 20 in W.P.No.5609 of 2018; and Mr.M.Kamalanathan, learned counsel for the 12th respondent in W.P.No.5609 of 2018.

2. In W.P.No.5609 of 2018, the petitioner seeks directions against respondents 1 and 2 to clear all the encroachments on the



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government land situated in Survey Nos.247, 249, 253/2 of Injambakkam Village encroached by respondents 3 to 21.

3. W.P.No.26900 of 2023 is filed to restrain the respondents therein from evicting the petitioner from the land comprised in Survey No.249 of Injambakkam Village.

4. Upon perusal of the records, it transpires that respondents 3 to 21 in W.P.No.5609 of 2018 and the petitioner in W.P.No.26900 of 2023 do not have any right or title over the subject writ property or the portion they are occupying. They are not owners and they did not obtain any permission for construction of the structure. It appears that respondents 3 to 11 in W.P.No.5609 of 2018 had earlier filed W.P.No.30404 of 2015 and the following order was passed on 25.1.2016 by a Division Bench of this Court:

"2. The result of the aforesaid is that as and when the project is taken up, the undertaking required to be furnished by the petitioners as per the order dated 29.09.2015 would come into force. A specific undertaking has been filed by the petitioners in this



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behalf.

3. We further direct that the petitioners are not entitled to part with possession or create any third party interest as also no further construction to be made and would only enjoy the existing premises subject to the requirement of road widening/ drainage system etc. in which eventuality, they will have to vacate the area.

4. The writ petition is disposed of in terms aforesaid. We make it clear that it is open to the petitioners to request the Government for rehabilitation even at present stage..."

5. The said order would bind all the parties concerned. Respondents 12 to 21 in W.P.No.5609 of 2018 and the petitioner in W.P.No.26900 of 2023 would be on the same pedestal. Respondents 12 to 21 in W.P.No.5609 of 2018 and the petitioner in W.P.No.26900 of 2023 are also required to file a specific undertaking as was directed in W.P.No.30404 of 2015 qua respondents 3 to 11 in W.P.No.5609 of 2018.



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6. Respondents 3 to 21 in W.P.No.5609 of 2018 and the petitioner in W.P.No.26900 of 2023 would not be entitled to protect their possession once the Corporation and/or the planning authority takes steps for road widening/drainage system, etc. and they shall have to immediately hand over the possession to the planning authority without any demur, as they are neither owners nor legitimate occupiers of the subject writ property.

With these observations, these writ petitions are disposed of. There will be no order as to costs. Consequently, W.M.P.Nos.25329 of 2022 and 26323 of 2023 are closed.

(S.V.G., CJ.)

(P.D.A., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU,J.

(sasi)

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