



W.P.Nos.9578, 9580 & 9583 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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J.Vincent Devaanbu	..	Petitioner in WP 9578 of 2023
Solaiyappan.A	..	Petitioner in WP 9580 of 2023
E.Rajkumar	..	Petitioner in WP 9583 of 2023

-VS-

1. Principal Secretary
Department of Revenue
Government of Tamil Nadu
Fort St.George
Chennai 600 009
2. The Managing Director
Tamil Nadu Slum Clearance Board
Kamarajar Salai, Chepauk
Chennai 600 005
3. The Tamil Nadu Housing Board
rep.by its Chairman and Managing Director
Nandanam, Anna Salai, Chennai 600 035



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4. The District Collector
Chennai City, Chennai

5. The Commissioner
Chennai Municipal Corporation

6. The Junior Engineer
(Water Resources Department)
Public Works Department
Padappai, Chennai

7. The Tahsildar
Velacherry Taluk Office
1st Street, Soni Nagar
Periyar Nagar Extension, Seva Nagar
Velachery, Chennai 600 042

.. Respondents in all the WPs

Petitions under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned undated Show Cause Notice issued by the 6th respondent and quashing the same and consequently to direct the 2nd respondent to give effect to the letter dated 19.12.2005.

For Petitioners	::	Mr.E.Manoharan for M/s A.Bakkiya Lakshmi
For Respondents	::	Mr.J.Ravindran Additional Advocate General assisted by Mr.P.Muthukumar State Government Pleader for R1, R4, R6 & R7 Mr.M.Babu Muthu Meeran Standing Counsel for R2 Mr.N.R.Ramesh Kanna Standing Counsel for R5



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ORDER

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The petitioners have filed these three writ petitions with a common prayer for issuance of a writ of certiorarified mandamus, to call for the records of the impugned undated show cause notice issued by the 6th respondent and to quash the same with a consequential direction to the Managing Director, Tamil Nadu Slum Clearance Board, the 2nd respondent herein to give effect to the letter dated 19.12.2005.

2. Learned counsel appearing for the petitioners, in an effort to substantiate the claim of the petitioners to quash the impugned show cause notice, submitted that the petitioners are all residing in a part of Survey No.123/1, Velacherry Village, Chennai, which is also called Jaganathapuram, whereas the impugned show cause notice alleges that the petitioners have encroached upon the water body. The petitioners are not on the water body, but they are living around the water body, because initially the Survey No.123/1 comprising of 265 acres was classified as 'Yeri



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Poramboke'. Due to passage of time, people started settling in the area.

Therefore, taking into account the intense population explosion, the State Government have handed over 139 acres from the said survey number to the Tamil Nadu Slum Clearance Board, the 2nd respondent herein and 53 acres to the Tamil Nadu Housing Board, the 3rd respondent herein. Thereafter, the Tamil Nadu Slum Clearance Board had also allotted vacant house sites to the homeless people permitting them to construct houses. Similarly, the Tamil Nadu Housing Board have also constructed LIG, MIG & HIG houses under various schemes and allotted the same to the general public. Later on the State Government also have launched various schemes for regularization of occupations. Notably, they have also issued G.O.Ms.No.168, Revenue Department dated 27.03.2000 and G.O.Ms.No.854, Revenue Department dated 30.12.2006 to regularize the encroachments, wherein the individuals have resided in the said land for a period of 10 years. Since the petitioners are also residing in the same place for more than 40 years, their case also is squarely falling within the above scheme. Therefore, the impugned show cause notice ought not to have been issued against the petitioners. Hence,



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the impugned show cause notice issued against the petitioners, ignoring the fact that they are all living for more than 40 years and are also entitled to get the benefit of the aforementioned government orders, is liable to be quashed.

3. Heard Mr.J.Ravindran, learned Additional Advocate General appearing for the respondents 1, 4, 6 & 7 and the respective learned Standing Counsel appearing for the respondents 2 & 5.

4. A mere perusal of the show cause notice clearly shows that the petitioners are all occupying the land covered in T.S.No.2, Block No.53 situated in Velacherry Big Yeri. As it is a water body, steps have been taken to remove the encroachers occupying the water body, pursuant to the order passed by this Court in Suo Motu Writ Petition No.8028 of 2018 dated 27.01.2022, wherein several directions have been given following the order of even date passed in W.P.(MD) Nos.22163 of 2018 etc. Secondly, the copy of 'A' register also clearly shows that the land covered in T.S.No.2



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(Old S.No.123/1 part), Block No.53 situated at Velacherry has been classified as a water body. Therefore, when the impugned show cause notice, in our considered opinion, has been rightly issued asking the petitioners to vacate from the water body, this Court cannot thwart the official respondents from removing the encroachments and the encroachers from the water body. Hence, all the writ petitions are dismissed. Consequently, W.M.P.Nos.9625, 9627, 9639 of 2023 are also dismissed. There shall be no order as to costs.

Speaking/Non speaking order

(T.R.,A.C.J.) (D.B.C.,J.)

Index : yes/no

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SS

To

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