



WEB COPY

WP No.20414 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-03-2024

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

And

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

WP No.20414 of 2018

1.K.Mohamed Ansar

2.Mrs.Mukther Hathu

.. Petitioners

-VS-

1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 006.

2.The Chairman,
Tamil Nadu Slum Clearance Board,
Chepauk,
Chennai-600 005.



3. The Tahsildar,
Egmore Taluk,
Chennai.

[R-3 impleaded vide order of Court dated 17.02.2020
made in WMP No.4482 of 2020 in WP No.20414 of
2018]

4. The Principal Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai-600 009

[R-4 suo motu impleaded vide order of
Court dated 18.03.2024 made in WP 20414 of 2018]

5. The District Collector,
Chennai District,
Chennai.

[R-5 suo motu impleaded vide order of
Court dated 18.03.2024 made in WP 20414 of 2018] .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents herein to remove the unauthorised encroachments of hut dwellers and restore 50' road lying between the Vathiyar Thottam on the West, Sherkhan Garden on the East, Arya Gowda Road on the South and Director's Colony 4th Main Road on the Rangarajapuram on the North situated in Rangarajapuram, Kodambakkam, Chennai-600 024.



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For Petitioners : Ms.AL.Ganthimathi for
Mr.AR.Karthik Lakshmanan

For Respondent-1 : Mr.G.T.Subramanian,
Standing Counsel for Greater
Chennai Corporation.

For Respondent-2 : Mr.G.Venkatesan,
Standing Counsel for TNUHDB.

For Respondents-3 to 5 : Mr.A.Selvendran,
Special Government Pleader.

For Advocate Commissioner: Mr.K.Madhu and Mr.C.K.Chandra
Sekkar

ORDER

[ORDER OF THE COURT WAS MADE

BY S.M.SUBRAMANIAM, J.]

The Writ of Mandamus has been instituted to direct the respondents herein to remove the unauthorised encroachments of hut dwellers and restore 50' road lying between the Vathiyar Thottam on the West, Sherkhan Garden on the East, Arya Gowda Road on the South and Director's Colony 4th Main Road on the Rangarajapuram on the North



situated in Rangarajapuram, Kodambakkam, Chennai-600 024.

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2. It is not in dispute between the parties that the subject property has been notified as 'slum area' in G.O.Ms.No.1634, dated 14.12.1971 under the provisions of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 [hereinafter referred to as the 'Act', in short]. Though it was notified under the Act, the Tamil Nadu Slum Clearance Board, now renamed as Urban Habitat Development Board, has failed in its duty to develop the land as contemplated under the provisions of the Act. On account of inaction on the part of the Slum Clearance Board, further encroachments are made in that locality.

3. Smt.AL.Ganthimathi, learned Senior Counsel, appearing on behalf of the petitioners, would submit that the encroachments have gone to the extent of encroaching upon public roads and therefore, the private individuals residing in that locality, have no free ingress and egress. On account of large scale encroachments in that locality, several representations were submitted, but no actions were taken. Thus the present writ petition came to be instituted by the writ petitioners.



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4. Mr.G.Venkatesan, learned Standing Counsel for the Urban Habitat Development Board, would submit that the area was admittedly declared as 'slum area' under the Act. But the Slum Clearance Board has not developed the same and has addressed a letter to the Competent authority to de-notify the area, on 10.08.2017. However, it is yet to be de-notified. Thus the area is under the control of the Slum Clearance Board as of now. Therefore, they are duty bound to protect the land and develop the same if possible, otherwise, they are bound to initiate immediate action. After notifying a particular area as 'slum area', further encroachments, at no circumstances, be permitted, depriving the other residents of that locality from using public roads.

5. Mr.G.T.Subramanian, learned Standing Counsel appearing on behalf of the Chennai Corporation, made a submission that they are not in a position to remove the encroachments, since the area has been notified as 'slum area' under the Act.



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6. Declaration of slum areas, registration of buildings and restriction on building etc., in slum areas, are made under Sections 3, 4 and 5 of the Act, which read as under:-

“3. Declaration of slum areas.- (1) Where the Government are satisfied that-

(a) any area is or may be a source of danger to the health, safety or convenience of the public of that area or of its neighborhood, by reason of the area being low-lying, insanitary, squalid, overcrowded or otherwise; or

(b) the buildings in any area, used or intended to be used for human habitation are- (i) in any respect, unfit for human habitation; or (ii) by reason of dilapidation, over-crowding, faulty arrangement and design of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities, or any combination of these factors, detrimental to safety, health or morals, they may by notification, declare such area to be a slum area.

(2) In determining whether a building is unfit for human habitation, for the purposes of



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this Act, regard shall be had to its condition in respect of the following matters, that is to say:-

- (i) repair,*
- (ii) stability,*
- (iii) freedom from damp,*
- (iv) natural light and air.*
- (v) water-supply*
- (vi) drainage and sanitary conveniences,*
- (vii) facilities for storage, preparation and cooking of food and for the disposal of water waste;*

and the building shall be deemed to be unfit as aforesaid, if and only if it is so defective in one or more of the said matters that it is not reasonably suitable for occupation in that condition.

4. Registration of buildings- (1) (a) Within the period specified in clause (b) the owner or occupier of every building situated in any slum area shall send to the prescribed authority a statement in such form as may be prescribed.

(b) The statement under clause (a) shall be sent within such period as may be prescribed.

(2) On receipt of the statement under sub-



section (1) the prescribed authority shall, on being satisfied about the correctness of the statement, register the building in a register maintained for the purpose and containing such particulars as may be prescribed and shall issue, in the prescribed form a registration certificate to the owner or occupier of the building.

5. Restriction on buildings, etc., in slum areas.- (1) The prescribed authority may, by notification, direct that no person shall erect any building in a slum area except with the previous permission in writing of the prescribed authority.

(2) Every notification issued under sub-section (i) shall cease to have effect on the expiration of two years from the date thereof except as respect things done or omitted to be done before such cesser.

(3) Every person desiring to obtain permission referred to in sub-section (1) shall make an application in writing to the prescribed authority, in such form and containing such information in respect of the erection of the building to which the application, the prescribed authority, after making such enquiry as it



considers necessary shall, by order in writing.-

(a) either grant the permission subject to such terms and conditions, if any, as may be specified in the order; or

(b) refuse to grant such permission; Provided that before making an order refusing such permission, the applicant shall be given a reasonable opportunity to show cause why the permission should not be refused.

(4) Nothing contained in sub-section (1) shall apply to-

(a) any works of improvement required to be executed by a notice under sub-section (1) of section 6 or in pursuance of an undertaking given under sub-section (2) of Section 9; or

(b) the erection of any building in any area in respect of which a notification has been issued under sub-section (1) of Section 11.”

7. Once the area has been declared as 'slum area' under Section 3 of the Act, then the Slum Clearance Board has duty to follow the further procedures as contemplated under the Act. After such declaration, no person shall erect any building in the slum area, except with prior permission in



writing of the prescribed Authority.

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8. In the present case, such permission was not granted by the prescribed Authority, as contemplated under the Act. However, large scale encroachments are made, depriving the private landowners to have free access to public roads.

9. Irresponsible act on the part of the Slum Clearance Board and the Competent Authority, under the provisions of the Act, is to be deprecated. The Authorities Competent, after notification of slum area, under the Act, shall develop the area in accordance with the Act, or de-notify the same and handover the lands to the original landowners.

10. Contrarily, these Authorities cannot permit the encroachers to put up unauthorised constructions in the notified area under the Act. It is a serious lapse on the part of Slum Clearance Board and the Chennai Corporation, who in turn failed to initiate appropriate action to maintain



public roads, health and sanitation for the people, who all are residing in the slum area.

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11. The very purpose and object of the Act, is to ensure that public safety, health etc., are to be maintained. On account of lapses on the part of the Slum Clearance Board and the Chennai Corporation, several greedy men encroached upon slum notified area. Therefore, this Court is of the opinion that all appropriate actions are to be initiated.

12. In this context, (1) **The Principal Secretary to Government, Housing and Urban Development Department, Fort St. George, Chennai-600 009** and (2) **The District Collector, Chennai District, Chennai, are suo motu impleaded as respondents 4 and 5.** Mr.A.Selvendran, learned Special Government Pleader takes notice on behalf of the impleaded respondents 4 and 5.

13. In view of the facts and circumstances, the respondents are



directed to initiate all appropriate actions either to de-notify the slum area under the provisions of the Act or to develop the area under the Act.

However, the road portions are concerned, it is to be protected for the benefit of the people of that locality. Thus, the existing roads in that locality, are directed to be resumed by removing all the road encroachments by following the procedures as contemplated under the relevant Statutes and the Rules in force.

14. It is needless to state that unauthorised constructions on the roads are directed to be removed by following the procedures. If any bogus documents or fraudulent revenue records are identified by the Competent Authorities, all appropriate actions are to be initiated to prosecute the persons, who have produced such fraudulent revenue records and bogus documents.

15. In this regard, the Competent Authorities of the Chennai Corporation, Revenue Department and Slum Clearance Board, are directed to have joint action to remove the encroachers from the road, so as to provide free access to the public road to all persons, who all are residing in



that locality and to the people at large. The entire exercise is directed to be completed within a period of four months from the date of receipt of a copy of this order.

16. Accordingly, the present writ petition stands disposed of.

However, there shall be no order as to costs.

(S.M.SUBRAMANIAM,J.)

(K.RAJASEKAR,J.)

18-03-2024

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

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