



W.P.No.31538 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.31538 of 2024

M.Bala
W/o.Muthu

... Petitioner

Vs.

1. The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai-600 003.
2. The Executive Engineer
Kasturba Nagar 31
Thiruvengadam Street
Baktavatsalam Nagar, Adyar
Chennai-600 020.
3. The Assistant Executive Engineer
Kasturba Nagar 31
Thiruvengadam Street
Baktavatsalam Nagar, Adyar
Chennai-600 020.
4. The Assistant Engineer
Kasturba Nagar 31

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Thiruvengadam Street
Baktavatsalam Nagar, Adyar
Chennai-600 020.

5. The Chairman
Tamil Nadu Slum Clearance Board
Kamarajar Salai, Ayothiya Nagar
Triplicane,
Chennai-600 005.

6. Selvakumar
S/o.Govindasamy

... Respondents

Prayer :

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus, to direct the respondents 2 to 4 to dispose of the representation dated 21.03.2024 to take action in respect of the occupation of the 6th respondent in the free space left between Plot No.58 and Plot No.59 at 15th Cross Street, C.S.Colony, Koondu Veedu, Indira Nagar, Adyar, Chennai-600 020.

For Petitioner	:	Mr.L.Dhamodharan
For Respondents	:	Mr.A.S.Ragul Adhithya for Ms.P.T.Ramadevi for R1 to R4 Mr.M.Babu Muthu Meeran Standing Counsel assisted by Mr.K.Tippu Sultan for R5



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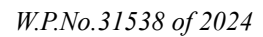
ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity} has been filed with a prayer to mandamus R2 to R4 to dispose of a representation dated 21.03.2024 and to take action in respect of alleged occupation (by R6) of what according to writ petitioner is free space between Plot No.58 and Plot No.59 in 15th Cross Street, C.S.Colony, Koondu Veedu, Indira Nagar, Adyar, Chennai-600 020.

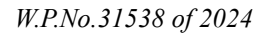
2. From the case file before us and from the submissions of Mr.L.Dhamodharan, learned counsel on record for writ petitioner, it comes to light that there is a history to the matter by way of earlier proceedings and earlier judicial order in this Court.

3. On the same issue of alleged encroachment by R6 in what according to writ petitioner is free space between Plot No.58 and Plot No.59, writ petitioner filed a writ petition in W.P.No.31457 of 2019



i.e., The Chairman, Tamil Nadu Slum Clearance Board, Kamarajar Salai, Chennai) and a scanned reproduction of the order dated 01.10.2019 is as follows:



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4. The challenge to the order dated 01.10.2019 made by R5 was negatived (writ petition was dismissed) by another Hon'ble Division Bench of coordinate strength, to which one of us {K.Rajasekar ,J} was a party, in and by an order dated 27.02.2024 *inter alia* on the ground that the order is in accordance with the layout plan approved by erstwhile 'Tamil Nadu Slum Clearance Board' {'TNSCB'} which is now 'Tamil Nadu Urban Habitat Development Board' {'TNUHDB'}. A scanned reproduction of the order of the other coordinate Division Bench dated 27.02.2024 is as follows:



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W.P.No.31457 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P. No.31457 of 2019

M.Bala ... Petitioner

Vs.

1. The Revenue Deputy Commissioner,
Corporation of Chennai,
Dr.Muthulakshmi Road, (LB Road),
Adyar, Chennai - 600 020.

2. The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai - 3.

3. The Chairman/Managing Director,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai, Chennai.

4. Selvakumar ... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, for issuance of writ of Certiorified Mandamus, calling for the records and quashing the impugned order dated 01.10.2019 vide Nu.Ka.No.G7/8166/2016 passed by the 3rd respondent herein and directing the respondents to remove

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W.P.No.31457 of 2019

Encroachment made by the 4th respondent in between Plot No.58 and Plot No.59, 15th Cross Street, C.S.Colony, Koondur Veedu, Indira Nagar, Chennai
COPY - 600 020.

For Petitioner	: Mr.S.Jaganathan
For R1 and R2	: No appearance
For R3	: Mr.K.Tippu Sulthan
For R4	: Mr.A.Senthil Manohar

ORDER

(Order of the Court made by S.M.SUBRAMANIAM,J.)

The order of rejection dated 01.10.2019 issued by the Managing Director, Tamil Slum Clearance Board is under challenge in the present writ proceedings.

2. The claim of the writ petitioner is that in between the Plot No.58 and Plot No.59, there is a lane, which is to be utilized as public pathway. Since the lane is under encroachment, the petitioner filed a complaint and the said complaint was rejected by the respondents. Therefore, the present writ petition came to be instituted.

3. Learned Counsel for the petitioner would submit that even as per the layout, it is a lane. Therefore, the respondents are bound to remove the

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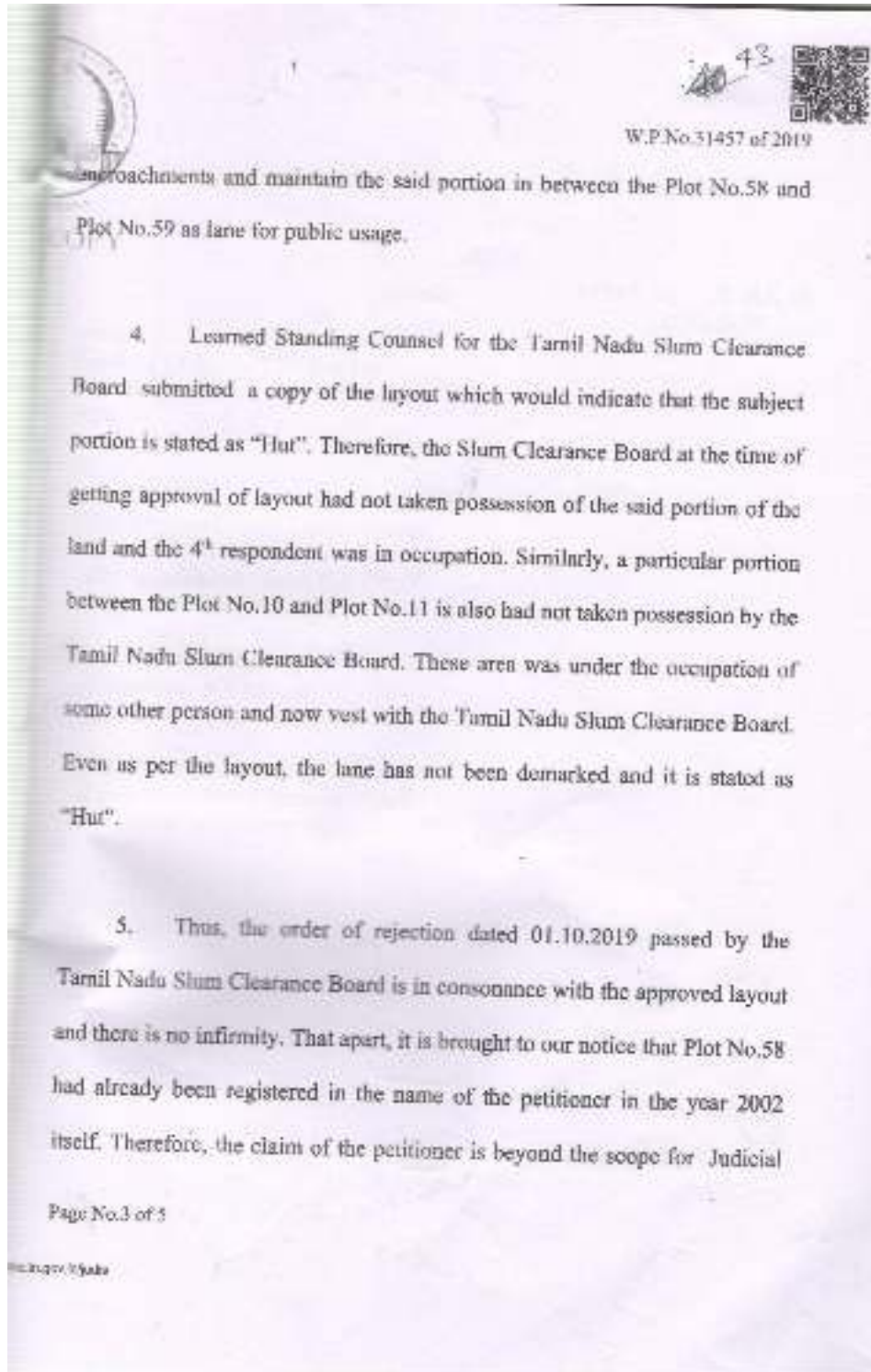
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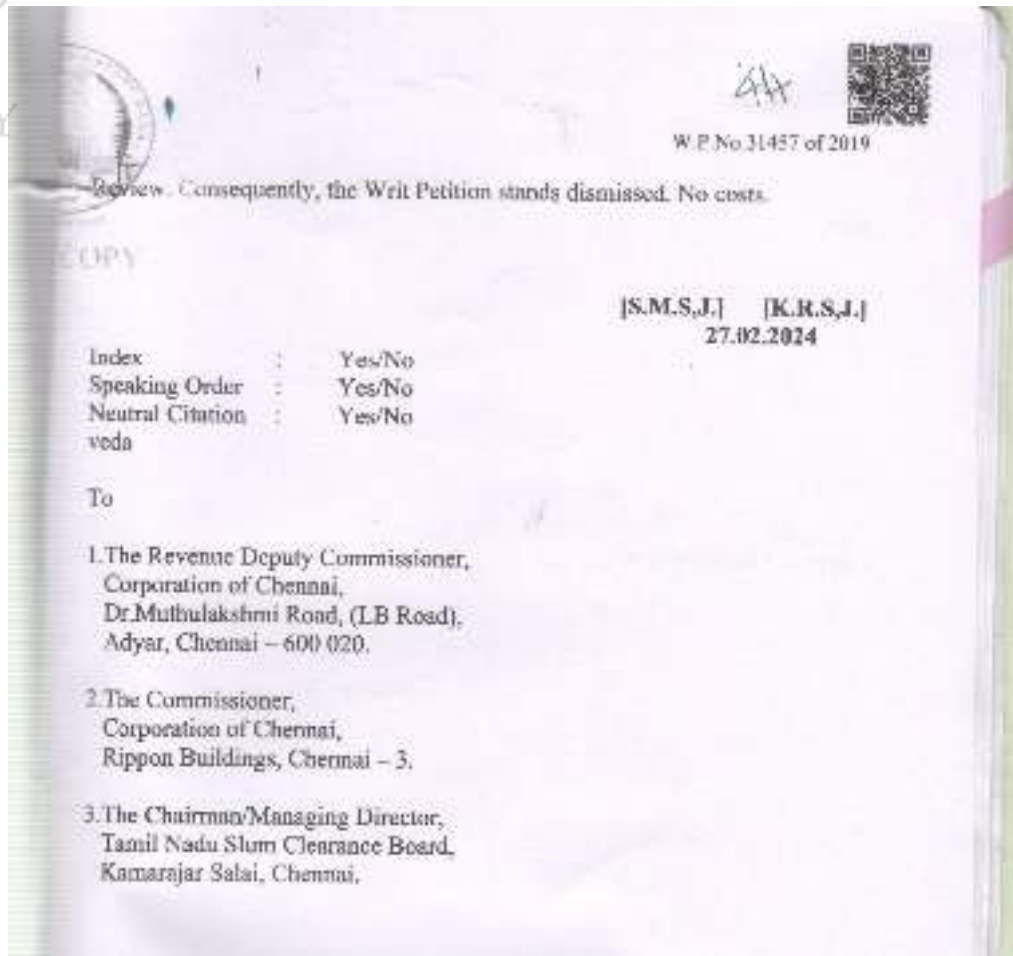




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5. After being unsuccessful in the earlier round of litigation, writ petitioner has sent a representation dated 21.03.2024, this time to the Chennai Corporation authorities besides Chairman of erstwhile TNSCB (now TNUHDB) and has come up with the afore-referred mandamus prayer.



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6. We are of the considered view that the captioned WP does not pass muster in the Admission Board and the reasons are as follows:

(i) On the self-same cause of action, writ petitioner has earlier moved this Court by way of a writ petition in W.P.No.31457 of 2019 and a detailed judicial order dated 27.02.2024 has been made by another Hon'ble coordinate Division Bench;

(ii) In the approved plan, what according to writ petitioner is free space between Plot No.58 and Plot No.59 has been shown as 'hut';

(iii) In the sanctioned plan of erstwhile TNSCB, we find from the legend (key) that street encroachment has been separately shown with  sign but the space between Plot No.58 and Plot No.59 have not been shown as street encroachment;

(iv) In any event, we find that allotment was way back in the year 2010 and alleged putting up of hut by R6 itself is immediately thereafter. We are now 14 years away from that



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date;

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(v) The earlier order of Hon'ble Division Bench makes it clear that the order made by erstwhile TNSCB is in accordance with the sanctioned plan and therefore, we can neither review nor sit in appeal qua an order made by a Hon'ble coordinate Division Bench of co-equal strength;

(vi) From the impugned order, which was sustained in the earlier round of litigation, it is clear that some lands belonging to R6 have been taken away by the Corporation for construction of public toilet and this land has been allotted but we are not going into all those questions and it will suffice to say that in TNSCB plan shown the space as 'hut';

(vii) The allotment order / sale deed placed before us being document No.1477 of 2003 on the file of the jurisdictional Sub-Registrar with regard to four boundaries (நான்கு எல்லைகள்) also shows North as C-Shed No.59 and does not show the Northern boundary as free space.



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In the light of the narrative, discussion and dispositive reasoning thus far, captioned WP fails to pass muster in the Admission Board. Ergo, the sequitur is, captioned WP is dismissed. We refrain ourselves from imposing costs.

(M.S.,J.)

(K.R.S.,J.)

04.11.2024

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

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To
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M.SUNDAR, J.,
and
K.RAJASEKAR, J.,

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