



W.P.No.1005 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 16.07.2025

CORAM

THE HONOURABLE MR. JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR. JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.1005 of 2022
and
W.M.P.No.1073 of 2022

A.Mahalakshmi
W/o.S.Anandhan

... Petitioner

vs.

1. The Chairman
Tamil Nadu Slum Clearance Board
Chennai.

2. The Executive Engineer
Division III, Tamil Nadu Slum Clearance Board
Vysarpadi, Chennai-39.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to
issue a writ of Certiorarified Mandamus, to call for the records of the 2nd
respondent in its impugned notice dated 06.01.2021 with regard to the
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encroachment near bunk shop at Patchakal, Veerasamy Street, Tamil Nadu Slum Clearance Board Scheme Area, Ayyanavaram, Chennai-23 and quash the same and further direct the 2nd respondent not to remove the petitioner's bunk shop at Patchakal, Veerasamy Street, Tamil Nadu Slum Clearance Board Scheme Area, Ayyanavaram, Chennai-23.

For petitioner : Mr.S.Arivazhagan

For Respondents : Mr.S.Karthikeyan
Standing Counsel

ORDER

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

Captioned main 'Writ Petition' {hereinafter 'WP' for the sake of brevity, convenience and clarity} turns on a very narrow compass.

2. A notice signed by R2 on 06.01.2021 has been assailed. This notice shall hereinafter be referred to as 'impugned notice' for the sake of brevity, convenience and clarity and a scanned reproduction of the same is as follows:



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தமிழ்நாடு நகர்ப்புர வாழ்விட மேம்பாட்டு வாரியம் கோட்டம் -3, வியாசாபாடி சென்னை-39

பச்சைகல் வீராசாமி தெரு திட்டப்பகுதி சி பிளாக் அருகில் பங்க் கூடுதல் ஆக்கிரமிப்பு

ஆக்கிரமிப்புதாரர்கள் காலி செய்ய இறாதி அறிவிப்பு

பெருநகர சென்னை மாநகராட்சி, அமைந்துள்ள பச்சைகல் வீராசாமி தெரு திட்டப்பகுதியில் பங்க் நடத்த ஒதுக்கப்பட்ட இடத்தை கூடுதலாக ஆக்கிரமிப்பு செய்துள்ளீர்கள். மேற்படி தாங்கள் வாரியத்திற்கு எதிராக நீதிமன்றத்தில் வழக்கு (W.P.No.36257/2016) தொடர்ந்தீர்கள் அந்த வழக்கில் நீதிமன்றம் தனது தீர்ப்பில் வழக்கினை 26-10-2016 அன்று தள்ளுபடி செய்ததுடன் ஆக்கிரமிப்புகளை அகற்றுமாறு ஆணை பிறப்பித்தது. ஆனால் இன்னால் வரை தாங்கள் ஆக்கிரமிப்பை காலி செய்யாமல் உள்ளீர்கள். எனவே வருகின்ற 12-01-2022-ம் தேதிக்குள் தாங்களாகவே ஆக்கிரமிப்பை காலி செய்து வாரியத்திடம் ஒப்படைக்குமாறு கேட்டுக்கொள்ளப்படுகின்றது. தவறும் பட்சத்தில் ஆக்கிரமிப்புகள் அனைத்தும் வாரியத்தின் மூலம் அகற்றப்படும் என அறிவிக்கப்படுகின்றது.

8/12/- -- 06.01.2022

நிர்வாகப்பொறியாளர்

கோட்டம்-3

தமிழ்நாடு நகர்ப்புர வாழ்விட மேம்பாட்டு வாரியம்

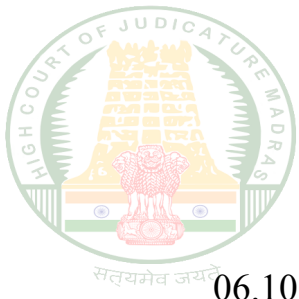


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3. Impugned notice refers to the order dated 26.10.2016 made by Hon'ble Division Bench in W.P.No.36257 of 2016. This writ petition was filed by one G.Ragunathan, wherein, the spouse of the writ petitioner before us (Anandhan) was arrayed as R4 and the prayer *inter alia* for removal of unauthorized construction was made. Suffice to say that Hon'ble Division Bench made it clear that the 'Tamil Nadu Slum Clearance Board (now Tamil Nadu Urban Habitat Development Board)' {hereinafter 'said Board' for the sake of brevity, convenience and clarity} shall proceed in accordance with law. Proceedings in accordance with law necessarily means adherence to 'Tamil Nadu Slum Clearance Board (Control & Management of Properties) Rules, 1971' {hereinafter 'said Rules' for the sake of brevity, convenience and clarity} being Subordinate Legislation made under 'the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 (Tamil Nadu XI of 1971)' {hereinafter 'said Act' for the sake of brevity, convenience and clarity}, more particularly, Rules 5 and 4(b) thereat. It appears Form A and Form B under said Rules (Form A is show cause notice under Rule 5 and Form B is final order under Rule 4) have been made. The same being dated

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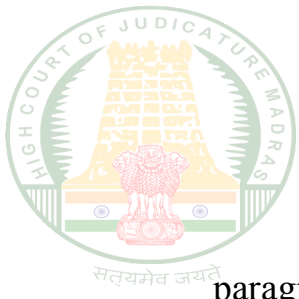
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06.10.2016 and 21.10.2016 respectively. The writ petitioner appears to have assailed the final order under Form B by way of an appeal petition under Section 59 of the said Act and the appeal was dismissed by the Appellate Authority vide 'Letter No.21685/SC2(1)/2016-3 on 24.02.2017' {hereinafter 'Appellate Authority Order' for the sake of brevity, convenience and clarity}. The Appellate Authority Order was assailed by the writ petitioner vide W.P.No.7860 of 2017 and the same was disposed of (after hearing both sides) by Hon'ble Division Bench on 04.04.2017, relevant paragraph is paragraph No.6 and the same reads as follows:

'6. Considering the facts and circumstances of the case, we direct the respondent authorities to cause an inspection and survey the property allotted to the mother-in-law of the petitioner and take steps to remove the encroachment, if any, after following the procedure contemplated under law and affording an opportunity of hearing to the petitioner.'

4. Reverting to the impugned notice, it does not refer to W.P.No.7860 of 2017 much less does it articulate any exercise vide paragraph No.6 of the aforesaid judicial order dated 04.04.2017 in W.P.No.7860 of 2017. Therefore, we dislodge the impugned notice on this short point preserving all rights and contentions of said Board to either re-do the exercise vide

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paragraph No.6 of the order dated 04.04.2017 in W.P.No.7860 of 2017 or if the exercise has already been done, issue notice afresh articulating the details of exercise. If such a notice is issued, all the rights and contentions of writ petitioner will stand preserved.

Captioned WP is allowed and the impugned notice is set aside albeit with the aforementioned preservation of rights. Consequently, captioned Writ Miscellaneous Petition is disposed of as closed. There shall be no order as to costs.

[M.S., J.]

[H.C., J.]

16.07.2025

Index : Yes / No

Neutral Citation : Yes

Speaking order / Non-speaking order

mk

To

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Division III, Tamil Nadu Slum Clearance Board
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and
HEMANT CHANDANGOUDAR, J.

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