



W.P.No.3164 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 05.02.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.3164 of 2025
and W.M.P.Nos.3493, 3495 and 4204 of 2025

Priyalakshmi

.. Petitioner

Versus

1. Tamil Nadu Housing Board,
Rep. by its Managing Director,
CMDA Complex,
E&C Market Road,
Koyambedu, Chennai - 600 107.
2. The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Chennai - 600 003.
3. The Executive Engineer and
Administrative Officer,
CIT Nagar Division,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.

4. The Executive Engineer,

<https://www.mhc.tn.gov.in/judis>



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Zone - 10,

Greater Chennai Corporation,

Kodambakkam, Chennai - 600 024.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned letter, dated 25.01.2025 in Letter No.C.I.T/Sur/586/2022 of the 3rd respondent and quash the same and consequently direct the 3rd respondent to provide the measurements of the joint survey, note sheet and other records containing the measurements taking during the joint survey on 02.01.2025, considering the explanation, dated 24.01.2025 of the petitioner.

For Petitioner : Mr.N.Murali Kumaran,
Senior Counsel,
Asstd. by Mr.R.Gopinath,
M/s.MCGAN Law Firm

For Respondents : Mr.D.Veerasekaran,
Senior Counsel, for RR-1 and 3

: Mr.D.B.R.Prabhu,
Standing Counsel, for RR-2 and 4

ORDER

This Writ Petition is filed challenging the order, dated 25.01.2025. By the said order, the petitioner is ordered to be evicted from the land belonging to the Tamil Nadu Housing Board.



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2. The case of the petitioner is that he is in occupation of the road margin belonging to the Corporation and is running a Tea-cum-Snacks bar. While so, the Housing Board, when indulged in the exercise of demolishing the existing structures and is re-developing the property, is seeking to unauthorisedly evict the petitioner. When the petitioner earlier approached this Court by way of W.P.No.25829 of 2022, by the order, dated 06.09.2024, this Court directed the Housing Board to carry out an inspection and find out whether the petitioner encroached the property belonging to the board or the corporation and gave liberty to the board, if only the petitioner encroached the board's property. The inspection was not properly carried out and the petitioner is in occupation of the corporation's property and was wrongly decided by the impugned order. Hence, this Writ Petition.

3. The Writ Petition is resisted by the respondents by filing a counter-affidavit. The details of the inspection and also how the property comes



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within the board's limits, is given in the counter. Therefore, it is prayed that the petition is without any merits and it has to be dismissed.

4. *Mr.N.Murali Kumaran*, learned Senior Counsel for the petitioner, by producing a photograph and also by placing a sketch on record, would submit that it can be seen that the entire 178 feet x 109 feet land of the Housing Board, is already secured and covered by tin sheets and that they are now only going to start the construction. The petitioner's shop is only on the pavement and the same belongs only to the corporation and not the Housing Board and therefore, the impugned eviction proceedings are without jurisdiction.

5. When this Court, without going into the details of the case, upon considering the case of the petitioner that in any event, he is an encroacher of the road margin, questioned the learned Counsel for the petitioner and enquired whether the petitioner is willing to vacate on his own and if so, file



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an affidavit of undertaking, the petitioner filed an affidavit of undertaking. It is stated that the revenue from the small shop is the livelihood of the entire family of the petitioner, which consists of school going children and that he will vacate by the month of May, 2025.

6. The said prayer is strongly opposed by *Mr.D.Veerasekaran*, learned Counsel for the Housing Board. He submits that the Housing Board has since long been waiting to secure possession of this piece of land. The protracted proceedings have gone by. Therefore, this Court should not show any further indulgence as the Housing Board has to secure possession of this land also, otherwise, the very project itself will suffer.

7. I have considered the rival submissions made on either side and perused the material records of the case and also the photographs that are produced.



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8. It is seen that the construction site is already barricaded by tin sheets and I am of the view that the argument that the entire construction itself would be put to prejudice if the shop continues, cannot be accepted. When the authorities have filed an affidavit after inspection, holding that the land which was occupied, is only the land of the board, except to dispute the same by filing a sketch, no further materials are placed before this Court to disbelieve the version of the Housing Board. Accordingly, I hold that the Housing Board has jurisdiction to vacate the petitioner.

9. However, considering the fact that the petitioner has been carrying the business of tea shop for long and also considering the fact that the new project has to come up and the shop has to be evicted as soon as possible, I am of the view that since the petitioner has filed an undertaking affidavit, time is granted till 31.05.2025 for the petitioner to voluntarily vacate the place. If not, on the very next day, the respondent officials can go to the spot and the concerned Police shall give protection and the petitioner will be



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evicted on 01.06.2025 itself or at any time thereafter, as may be decided by
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the officials.

10. With the above observations, the Writ Petition stands disposed of.

There shall be no order as to costs. Consequently, connected miscellaneous
petitions are closed.

05.02.2025

Neutral Citation : no
grs

To

1. The Managing Director,
Tamil Nadu Housing Board,
CMDA Complex,
E&C Market Road,
Koyambedu, Chennai - 600 107.
2. The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Chennai - 600 003.



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3. The Executive Engineer and
Administrative Officer,
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