

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2008

CORAM

THE HON'BLE MR. JUSTICE S.J. MUKHOPADHAYA

AND

THE HON'BLE MR. JUSTICE F.M. IBRAHIM KALIFULLA

W.P.NO.3273 OF 2008

Rajiv Rai

... Petitioner

Vs.

1. The State of Tamil Nadu
Represented by its Secretary
Department of Housing & Urban Development
Fort St. George Chennai-0
2. The Collector of Chennai
Rajaji Salai
Chennai-1.
3. The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai-3.
4. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Maligai
Egmore,
Chennai-8.
5. The Zonal Officer
Zone -X, Chennai Corporation
L.B. Road, Adyar,
Chennai-600020
6. The Secretary to Government of Tamil Nadu
Public Works Department,
Fort St. George,
Chennai-9.

..... Respondents

(R-6 impleaded vide Order of Court dated 7.2.2008 in W.P. 3273/08)

Writ Petition filed under Article 226 of the Constitution of India
for Issuance of Writ of Mandamus as stated therein.

For Petitioner : Mr. S.R. Ragunathan

For Respondent Nos. 1,2&6 : Mr. D. Srinivasan
Additional Government Pleader

For Respondent Nos. 3 & 5 : Mr. G.T. Subramanian

For Respondent No.4 : Mr. J. Paranthaman

ORDER

(Order of the Court was made by S.J. Mukhopadhaya, J.)

This writ petition is preferred in public interest for a direction on the respondents to remove the encroachment on Elango Street, Rajé Annamalaiapuram, Chennai -28 abetting the Southern Bank of Buckingham Canal on the 40 feet road that connects Greenways Road and Kamaraj Salai within a stipulated period.

2. Earlier, when the matter was taken up for hearing, it was brought to the notice of this Court that by Order, dated 5.4.2006, passed in W.P.No.9494 of 2006, this Court already directed the Commissioner, Corporation of Chennai to take steps to remove the encroachment said to have been made on the land in question after affording an opportunity to the encroachers in accordance with law.

3. In view of the above said Order, in this case, by Order dated 7.2.2008, we directed the second respondent- Collector of Chennai and the sixth respondent-Secretary, Public Works Department, Chennai, to ensure compliance of the directions given by this Court, in the above and case.
4. Pursuant to the Order, dated 7.2.2008, the District Collector, Chennai has filed a report, wherein, it is stated that there have been more than 500 encroachments in existence on the bank of the Canal for more than a period of three decades and that the removal of the same has to be done in consonance with the general policy of removal of encroachment from the Chennai City Waterways.
5. It is further stated that the respondents have decided to take up this matter on priority after bringing it to the notice of the Government prior to and on completion of boundary demarcation and exact enumeration of encroachment and that process would take at least three months time.
6. Mr. D. Srinivasan, learned Additional Government Pleader submitted that the Govindasamy Nagar Slum Dwellers Welfare Association filed a suit in the City Civil Court in O.S. No.4053 of 1994 wherein, it obtained permanent injunction against the Tamil Nadu Slum Clearance Board from interfering with the

33

possession and enjoyment of the respective house sites and superstructure thereon by the members of the plaintiff more fully described in the schedule of the suit.

7. // Learned Counsel for the petitioner submitted that the said Order is not binding on the State of Tamil Nadu, particularly, Public Works Department, which is not a party to the said suit.

8. // In the present case, we find that the canal belongs to the State and also the encroachment on the bank of the canal has not been disputed and, therefore, we are of the view that when the land of the State has been encroached illegally, such encroachment should be removed, after affording due opportunity to the encroachers, in accordance with law. ✓
✓
✓

9. Further, as stated in the report of the District Collector, since the process of identifying the encroachment area and the formalities to be followed for eviction of the encroachers requires a minimum period of three months and in view of the earlier Order of this Court, dated 5.4.2006, we direct the respondents to take necessary steps for evicting the encroachers alleged to have encroached on Elango Street, Raja Annamalaipuram, Chennai-28 abetting the Southern Bank of Buckingham Canal on the 40 feet road, which connects Greenways Road and Kamaraj Salai, and such encroachments, wherever it is, whether it be on the bank of the

34

canal or road or street or any notified area, within a period of three months, after affording due opportunity to the encroachers, in accordance with law. We also direct the respondents to file a compliance report in regard thereto before this Court by 16.6.2008.

10 Let a copy of this Order be handed over to the counsel for the respondents, who shall communicate the same to the officers concerned without fail.

11. With the above directions, the writ petition stands allowed. No costs.

Post this matter on 16.6.2008.

Sd/-
Asst. Registrar

Sd/- Sub Asst. Registrar

//true typed copy //