

**UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA**

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**(Special Original Jurisdiction)**

**W.P No.**

**of 2021**

1. P. Karpagam,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2. S. Suganya,

[REDACTED]

3. M. Shanthi,

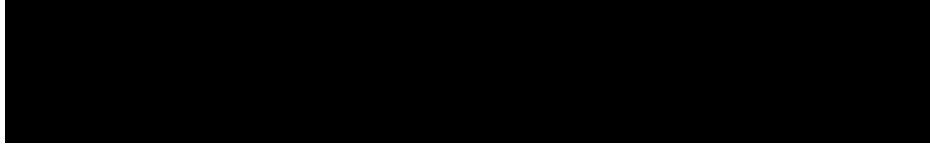
[REDACTED]

4. D. Shalomi Piyula Bhakiyam,

[REDACTED]

5. P. Preethi,

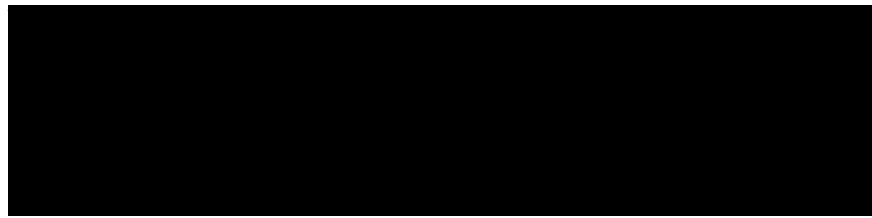
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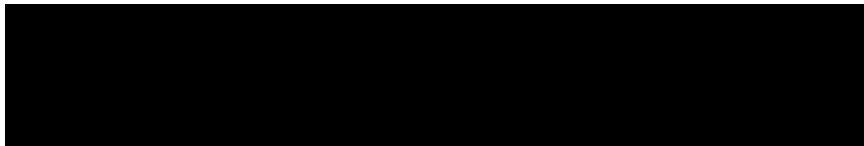
6. I. Jhansi rani,



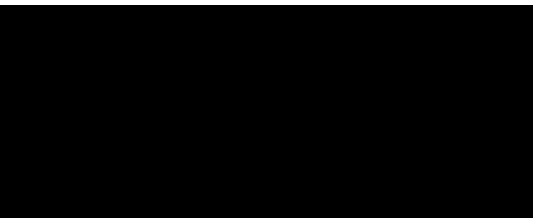
7. K. Tamil selvi,



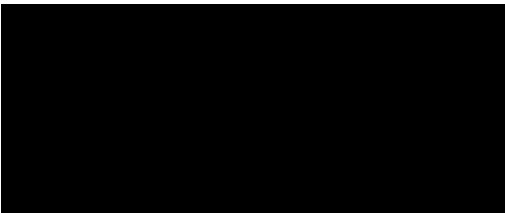
8. V. Sema Rani,



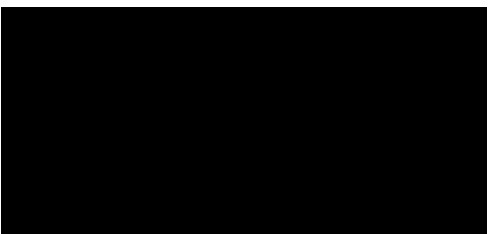
9. J. Chandra,



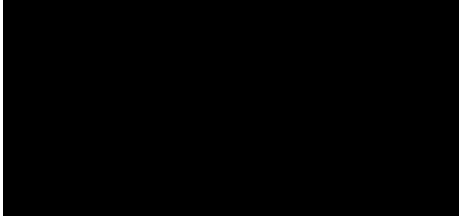
10.P. Rosy Christinal,



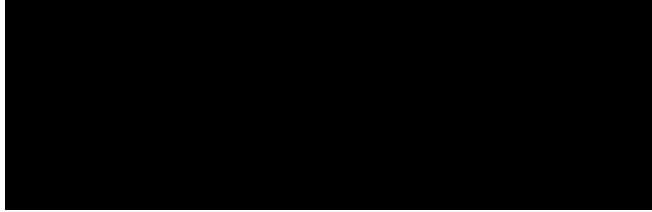
11. A. Laxmi devi,



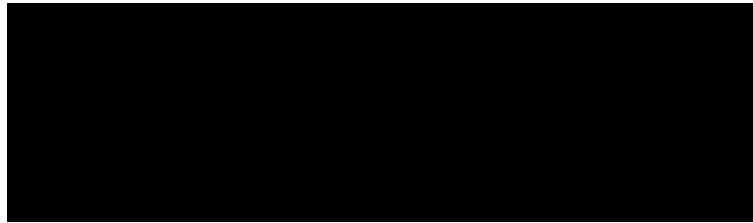
12.K. Vimala



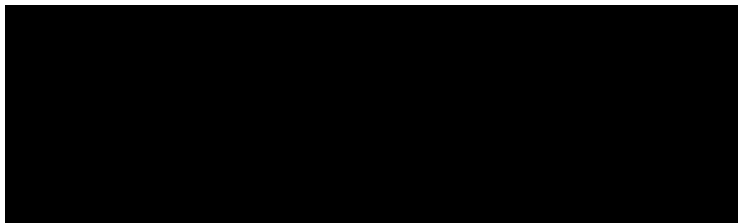
13.B. Kalpana,



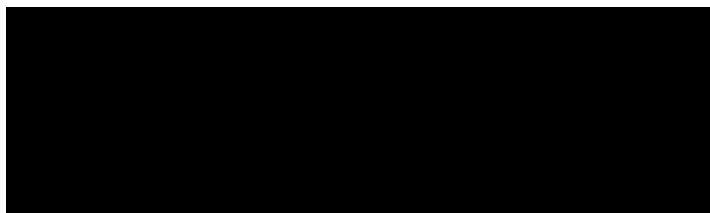
14.S. Kanmani,



15.V. Vimala,



16. K. Revathi,



... Petitioners

vs.

1. The Commissioner,

Greater Chennai Corporation,

Rippon Building, 1st Floor,

Raja Muthiah Road, Kannappar Thidal,  
Periyamet, Chennai 600 003.

2. The Tamil Nadu Slum Clearance Board,  
Through its Managing Director, No.5,  
Kamarajar Salai, Chepauk,  
Chennai-600 005.

3. State of Tamil Nadu,  
Through the Chief Secretary,  
Government of Tamil Nadu,  
Secretariat, Fort St, George,  
Chennai - 600 009

... Respondents

**AFFIDAVIT OF THE PETITIONER**

I, P. Karpagam, [REDACTED] residing at

[REDACTED]

[REDACTED] do solemnly affirm and sincerely state as follows on behalf of the other petitioners:

1. I am the Petitioner No.1 herein and, I am well acquainted with the facts and circumstances of the case and am competent to affirm and swear to this Affidavit on behalf of the other petitioners.
2. I submit that the present Writ Petition has been filed before this Hon'ble Court for directing the Respondent No. 1 & 2 to conduct a survey of the affected residents of evicted slum areas in Dr. Radha Krishnan Nagar,

Arumbakkam Chennai and rehabilitate them in accordance with the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971.

**Dr. RadhaKrishnan Nagar Slum Area, Arumbakkam**

3. I submit that the Dr. Radha Krishnan Nagar slum has been in existence since 1990 with more than 250 houses. The residents are mostly daily wagers such as domestic workers, Construction workers, Auto drivers, Carpenters and Painters etc. They are surviving from the earnings from their day to day menial jobs and struggling to overcome the sufferings of the first wave but now due to the second lockdown they have almost drained their small savings. Also, with no permanent source of income, they are struggling to buy dry rations for their survival, every day is a battle for them and now the add-on effect of the pandemic has made their life extremely vulnerable.

**Eviction and Demolition drive by Respondent No.1 Corporation**

**on 29.07.2021**

4. I submit that on 28.07.2021 night the authorities of Respondent No.1 Corporation reached the Dr. Radha Krishnan Nagar slum area and informed the people to immediately vacate the houses otherwise they will throw the household things outside. Thereafter on 29.07.2021 early morning the chennai corporation authorities along with the corporation

workers and police reached the slum area with 4 trucks and JCB bulldozers and asked the residents to immediately vacate the houses.

5. I submit that no prior notice has been given to the residents of Dr. Radha Krishnan Nagar slum area and cut the electricity supply of the residents on 29.07.2021 morning. Thereafter the authorities forcibly vacated and started demolishing a few houses. Later, due to the resistance of the residents, the authorities of the Respondent No.1 corporation stopped the eviction cum demolition for a few hours.
6. I submit that later all of sudden the Respondent No.1 authorities came to the slum area and assured to allot the houses for them in K.P. Park slum clearance board building and selectively distributed token to few of them and shifted their things to the truck and dropped them at the K.P. Park slum clearance board building.
7. I submit that more than 250 houses are there in the Dr. Radha Krishnan Nagar slum area in the first phase of eviction on 29.07.2021 around 125 houses were evicted and 93 residents were selectively given a token for the houses in K.P. Park slum clearance board building and the remaining residents were left without allotting houses and later the Respondent No.1 authorities and police forced the other residents in the slum to immediately vacate the houses and threatened to demolish the houses. But the residents were requesting the authorities to rehabilitate them before evicting them.

8. I submit that after allotting few houses in K.P. Park slum clearance board building the Respondent No.1 authorities forcibly evicted the houses of the other residents who were not rehabilitated or allotted with any houses and the allotment of new houses was very arbitrary that lot of slum dwellers were left in the road during this monsoon and pandemic time.
  
9. I submit that the children, aged people, pregnant women, people with disability and school going children residing in the slum were not even considered by the authorities while evicting them from the houses in the Dr. Radha Krishnan Nagar slum area. It is astonishing to realise how the respondent authorities have completely gone ignorant and disregardful of the covid situation throughout the country. As a matter of fact the above mentioned categories of residents are the most vulnerable to the virus and its complications.
  
10. I submit that whenever the residents approached the Respondent No.1 authorities during the demolition they were told to meet the slum clearance board for their rehabilitation, however no conclusive relief was provided to them despite multiple attempts.

**Representation filed before Respondent No.1 & 2 dated**

**29.07.2021 and 30.07.2021**

11.I submit that later in the afternoon on 29.07.2021 I along with some of the petitioners went to the Office of the Tamil Nadu slum clearance board and filed our representation to stop the eviction drive and also requested to rehabilitate the residents before any eviction, however no one acted upon the oral as well as the written representation.

12. I submit that thereafter on 30.07.2021 I along with some of the petitioners went to the Office of the Respondent No.1 corporation and filed our representation to stop the eviction drive and also requested to rehabilitate the residents before any eviction. But no action has been taken till date.

#### **First round of litigation**

13. I submit that due to the inaction of the Respondent No.1 & 2 authorities. I have filed a Writ Petition in the nature of public interest litigation before this Hon'ble Court. Later on 10.08.2021 through an order in W.P. 16601/2021 this Hon'ble court dismissed the PIL because of the private interest in that matter. The relevant parts of which is as under:-

2. Accordingly, W.P.No.16601 of 2021 is dismissed with liberty to the petitioner to challenge the actions complained of to the limited extent that it directly affects the petitioner. Such a challenge may be made before an appropriate forum in accordance with law. There will be no order as to costs.

#### **Second round of litigation**

14.I submit that in accordance with this Hon'ble Court judgement in W.P .No.16601 of 2021 dated 10.08.2021 and also due to the inaction of the



Respondent No.1 & 2 authorities regarding the representation dated 29.07.2021 and 30.07.2021 the petitioners are compelled to file the present writ petition under Article 226 of the Constitution of India for the following among other grounds:

### **Grounds**

- A. Because no prior notice has been served to the petitioners before the eviction cum demolition drive such as the residents of the Dr. Radha Krishnan Nagar slum area, Arumbakkam, Chennai.
- B. Because the law is well settled by a string of judgments viz Olga Tellis & Ors v. Bombay Municipal Corporation & Ors (1985 3 SCC 545), Sudama Singh v. Govt. of Delhi (2010 SCC OnLine Del), Ajay Maken & Ors v. Union of India & Ors (2019 SCC OnLine Del 7618), etc, delivered by the Constitutional Courts in India, which are all to the conclusion that (a) Right to Housing is part and parcel of the fundamental right to life under Article 21 of the Constitution of India, (b) Slum dwellers occupying Govt land cannot be evicted unless such land is required for an imminent public purpose, and (c) in the event of eviction they are to be rehabilitated.
- C. Because the section 9 (1) of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 and Rule 4 of the Tamil Nadu Slum Areas (Improvement and Clearance) Rules, 1971 says that prior notice should be given to the the slum dwellers before the

eviction drive. The relevant part is as under:-

9. Power of prescribed authority to order demolition of building unfit for human habitation.- (1) Where the prescribed authority on a report from the local authority concerned or the State Housing Board or the Board or an officer authorized by the Government for this purpose is satisfied that any building being unfit for human habitation in a slum area is not capable at a reasonable expense of being rendered so fit, it shall serve upon the owner of the building and upon any other person having an interest in the building, whether as lessee, mortgagee or otherwise, a notice to show cause, within such time as may be specified in the notice, as to why an order of demolition of the building should not be made.

4. Notice for demolition of building.- (i) The notice for the demolition of building, under subsection (1) of section 9 of the Act shall be issued by the Chairman, Tamil Nadu Slum Clearance Board, in the form appended to these rules – vide Appendix 'D'. (ii) The order of demolition referred to in sub-section (3) of section 9 of the Act shall be carried out within the period of 30 days from the date of expiry of the period specified in the said notice.

D. Because the Dr. Radha Krishnan Nagar slum area is the notified slum area by the Respondent No.2 in accordance with the section 3 (1) of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971

E. Because, Right to Housing is a Fundamental Right under Article 21 of the Constitution of India. This is established by a long line of judgments by the Constitutional courts in India. *Shantistar Builders Vs. N.K. Toitame* 1990 (1) SCC 520, it was held:

“(para 9) "The right to life would take within its sweep the right to food, the right to clothing, the right to a decent environment and reasonable accommodation to live in. The difference between the need for an animal and a human being for shelter has to be kept in view. For the animal it is the bare protection of the body, for a human being it has to be a suitable accommodation, which would allow him to grow in every aspect - physical, mental, and intellectual. The Constitution aims at ensuring fuller development of every child. That would be possible only if the child is in a proper home. It is not necessary that every citizen must be ensured of living in a well-built comfortable house but a reasonable home, particularly for people in India, can even be a mud-built thatched house or a mud-built fireproof accommodation."

“13. In recent years on account of erosion of the value of the rupee, rampant prevalence of black money and dearth of urban land, the value of such land has gone up sky-high. It has become impossible for any member of the weaker sections to have residential accommodation anywhere and much less in urban areas. Since a reasonable residence is an indispensable necessity for fulfilling the constitutional goal in the matter of development

of man and should be taken as included in 'life' in Article 21, greater social control is called for and exemptions granted under Sections 20 and 21 should have to be appropriately monitored to have the fullest benefit of the beneficial legislation. We, therefore, commend the Central Government to prescribe appropriate guidelines laying down the true scope of the term 'weaker sections of the society' so that everyone charged with administering the statute would find it convenient to implement the same."

F. Because in *Chameli Singh v. State of UP* (1996) 2 SCC 549, the Hon Supreme Court held as follows:

"4. ...In *P.G. Gupta v. State of Gujarat*, a Bench of three Judges of this Court considering the mandate of human right to shelter read it into Article 19(1)(e) and Article 21 of the Constitution of India to guarantee right to residence and settlement. Protection of life guaranteed by Article 21 encompasses within its ambit the right to shelter to enjoy the meaningful right to life. The Preamble of the Indian Constitution assures to every citizen social and economic justice and equity of status and of opportunity and dignity of person so as to fasten fraternity among all sections of society in an integrated Bharat. Article 39(b) enjoins the State that ownership and control of the material resources of the community are so distributed so as to promote welfare of the people by securing social and economic justice to the weaker sections of the society to minimize inequality in income and to endeavour to eliminate inequality in status. Article 46 enjoins the State to promote with

special care social, economic and educational interests of the weaker sections of the society. In particular, Scheduled Castes and Scheduled Tribes. Right to social and economic justice conjointly commingles with right to shelter as an inseparable component for meaningful right to life. It was therefore held that right to residence and settlement is a fundamental right under Article 19(1) (e) and it is a facet of inseparable meaningful right to life under Article 21. Food, shelter and clothing are minimal human rights. The State has undertaken as its economic policy planned development of massive housing schemes. The right to allotment of houses constructed by the Housing Board to the weaker sections, lower income group people under Lower Income Group scheme was held to be a Constitutional strategy, an economic programme undertaken by the State and that the weaker sections are entitled to allotment as per the scheme.”

G. Because in *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan* (1997) 11 SCC 121, held:

“13. ... It would, therefore, be clear that though no person has a right to encroach and erect structures or otherwise on footpaths, pavements or public streets or any other place reserved or earmarked for a public purpose, the State has a constitutional duty to provide adequate facilities and opportunities by distributing its wealth and resources for settlement of life and erection of shelter over their heads to make the right to life meaningful, effective and

fruitful. Right to livelihood is meaningful because no one can live without means of his living, that is the means of livelihood. The deprivation of the right to life in that context would not only denude life of effective content and meaningfulness but it would make life miserable and impossible to live in. it would, therefore, be the duty of the State to provide right to shelter to the poor and indigent weaker sections of the society in fulfilment of the constitutional objectives.”

H. Because in *Sudama Singh v. State (NCT of Delhi)* 2010 SCC OnLine Del 612, held:

“27... The housing problem can be considered to be universal, since to date, no country has yet managed to completely meet this basic human need. Adequate housing serves as the crucible for human well-being and development, bringing together elements related to ecology, sustained, and sustainable development. It also serves as the basic unit of human settlements and as an indicator of the quality of life of a city or country's inhabitants.”

It continues

“55... Identified relocation sites must fulfill the criteria for adequate housing according to international human rights law.

These include:

(g) culturally appropriate housing. To ensure the security of the home, adequate housing should also include the following

essential elements: Privacy and security; participation in decision-making; freedom from violence; and access to remedies for any suffering.”

“53. ...The denial of the benefit of the rehabilitation to the petitioners violates their right to shelter guaranteed under Article 21 of the Constitution. In these circumstances, removal of their jhuggis without ensuring their relocation would amount to gross violation of their Fundamental Rights.”

- I. Because these judgements aforementioned are to the conclusion that informal settlements on public land are not to be removed/evicted unless the land is required for an imminent public purpose, and when removed/evicted, the residents are to be rehabilitated in-situ or to a place closest to their means of livelihood.
- J. Because the right to housing is a bundle of rights not limited to a bare shelter over one 's head. It includes the right to livelihood, right to health, right to education, and right to food, including the right to clean drinking water, sewerage, and transport facilities.
- K. Because the right to adequate housing is a human right recognized in international human rights law as part of the right to an adequate standard of living. One of the first references to it is in article 25 (1) of the Universal Declaration of Human Rights. The International

Covenant on Economic, Social and Cultural Rights, widely considered as the central instrument for the protection of the right to adequate housing, refers to the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions (art. 11).

L. Because the United Nations Special Rapporteur on the Right to adequate housing, on 28.03.2020, stated as follows:

“Housing has become the frontline defense against the coronavirus. Home has rarely been more of a life-or-death situation.

...In keeping with their international human rights obligations to ensure residents of informal settlements/encampments can “stay home” and be adequately protected against the life-threatening virus, States must undertake the following measures immediately:

1. Declare an end to all forced evictions of informal settlements and encampments. Ensure the necessary resources are available to implement this order effectively, including resources to monitor and prevent extrajudicial evictions.”

M. Because the United Nations Special Rapporteur on the Right to adequate housing, on 28.04.2020, stated as follows:

“Housing has become the frontline defense against the coronavirus.



...Evictions are not only inconsistent with the 'stay home' policy, but forced evictions are a violation of international human rights law, including the right to housing, as are any evictions that result in homelessness.<sup>1</sup> In the face of this pandemic, being evicted from your home is a potential death sentence.”

N. Because finally, the United Nations Special Rapporteur on the Right to adequate housing, on 18.08.2020, stated as follows:

“Losing your home during this pandemic could mean losing your life. The rights to life and adequate housing are intrinsically linked. Forced evictions are an outrageous violation of human rights, including the right to adequate housing. During a pandemic, when people are asked to stay home to protect themselves and others, forced evictions are even more odious and may constitute grave violations of humanitarian law.”

O. Because the respondents did not give any hearing or even notice to the residents and went ahead with demolition. This is an arbitrary action in violation of Art 21 of the Constitution and Principle of Natural Justice and in itself is a sufficient reason to declare respondents' action unlawful and restore the status quo.

P. Because it needs no elaboration that the right to housing is a bundle of Fundamental Rights with a plethora of rights dependent on it, for example the right to privacy, the right to education etc. It has assumed

even more significance in the present pandemic situation, considering the need for social distancing and hygienic living conditions.

Q. Because no action have been taken till date against the representations filed before the Respondent No.1 & 2 authorities dated 29.07.2021 and 30.07.2021

### **Prayer**

THEREFORE, in light of the above facts and circumstances, it is prayed that this Hon'ble Court may be pleased to:

- i) Issue a writ of mandamus or any other appropriate writ, order or direction to the Respondent No.1 & 2 to conduct a survey of the evicted residents (petitioner no. 1 to 16) and rehabilitate the petitioners in accordance with the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971
- ii) Pass any other directions/orders which this Hon'ble Court deems fit and proper in the interest of justice and equity.

Solemnly affirmed at Chennai on this

PETITIONER

the 13<sup>th</sup> day of August 2021 and signed

BEFORE ME

his name in my presence.

ADVOCATE, CHENNAI

**DISTRICT: CHENNAI**

**IN THE HIGH  
COURT OF  
JUDICATURE AT  
MADRAS**

**W.P No.            of 2021**

**AFFIDAVIT**

**ARUN KASI (D/6017/2018)**

**PRADEEP RAJA. T (D/6864/2020)**

**COUNSELS FOR PETITIONER**

**Cell No. 8882197957**