

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:30.04.2015

Coram

THE HONOURABLE Mr. JUSTICE SATISH K.AGNIHOTRI
AND
THE HONOURABLE Mr. JUSTICE M.VENUGOPAL

W.P.No.13519 of 2015

T.Balaraman

... Petitioner

Vs.

- 1.The Commissioner,
Corporation of Chennai,
Chennai - 600 003.
- 2.The Zonal Officer (X Zone),
No.64, NSK Salai, Kodambakkam,
Chennai - 600 024.
- 3.The Assistant Engineer,
Corporation of Chennai,
28th Circle, Kamarajar Salai,
Virugampakkam, Chennai - 600 092.
- 4.M/s.Trust Association of the
Advent Christian Conference,
No.37, Gangai Amman Kovil Street,
Virugampakkam, Chennai - 600 092.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 3rd Respondent to dispose of the representation dated 19.03.2015 according to the law.

For Petitioner : Mr.R.Ravindra Ram

For Respondents 1 to 3 : Mrs.Karthikaa Ashok

ORDER

(Order of the Court was made by M.VENUGOPAL,J.)

The Petitioner has preferred the instant Writ Petition praying for passing of an order by this Court to dispose of his representation dated 19.03.2015 according to law.

2.According to the Petitioner, his father had purchased vacant lands measuring an extent of 1479 sq. ft., 3400 sq. ft. and 204 sq. ft. (in all, a total extent of 5083 sq. ft.) from Kengan's Legal Heirs viz., K.Theruveethi and K.Munusamy as per Document Nos.3012/1974, 2136/1978 and 3125/1984. Further, his father had settled a land measuring an extent of 1372 sq. ft. viz., Document No.1549 of 1987 at first time in his favour. Later, for the second time, his father had settled a vacant land measuring an extent of 204 sq. ft. through a Will in his favour. However, this aspect was not mentioned in the Settlement Deed. That Apart, his father had settled the remaining properties in favour of his sibling viz., Kannappan, for the land measuring about 1428 sq. ft. and in favour of his sister, a land measuring an extent of 1530 sq. ft. Since then all of them had taken possession and are in enjoyment of the said properties.

3.The stand of the Petitioner is that the suit in O.S.No.6928 of 1988 on the file of the City Civil Court, Chennai was filed by his father against one Etty (adjacent land owner) and sought permanent injunction relief and the same was dismissed by the Learned I Assistant City Civil Judge, City Civil Court, Chennai on 08.12.2009. Later, he preferred an Appeal in A.S.No.176 of 2010 on the file of the Learned VII Additional Sessions Judge, City Civil Court, Chennai and the Appeal was dismissed on 19.11.2011.

4.The clear cut case of the Petitioner is that subsequent to the Court Proceedings, the land measuring an extent of 592 sq. ft. was encroached by the 4th Respondent/Trust Association of the Advent Christian Conference and they had constructed illegally a boundary wall in his vacant land and in this regard, the Petitioner had submitted a representation to the Respondents on 19.03.2015 wherein he had made a request to pass an order in removing the encroachment and the illegal construction of wall put up by the 4th Respondent.

5.Admittedly, the suit in O.S.No.6928 of 1988 filed by the Petitioner's father, Petitioner and other legal heirs of his father as Plaintiffs against one Etty (deceased) and others seeking the relief of permanent injunction came to be dismissed by the Learned I Assistant City Civil Judge, City Civil Court, Chennai through a Judgment dated 08.12.2009. As a matter of fact, an Appeal in

A.S.No.176 of 2010 preferred by the Petitioner and two others also came to be dismissed by the Learned VII Additional Sessions Judge, City Civil Court, Chennai on 19.11.2011. In effect, the Appellate Court had confirmed the Judgment passed by the Tribunal in O.S.No.6928 of 1988.

6.In the above backdrop, the plea of the Petitioner is that subsequent to the aforesaid Court Proceedings, the 4th Respondent had illegally constructed a boundary wall in his vacant land by encroaching an extent of 592 sq. ft. and in this regard, he had made a representation before the Respondents 1 to 3 on 19.03.2015 to order removal of encroachment and illegal construction of wall.

7.At this stage, this Court pertinently points out that on going through the contents of the representation made by the Petitioner dated 19.03.2015 and also this Court, taking note of the submissions projected on the side of the Petitioner, is of the considered view that the issue of encroachment and illegal construction of wall put up by the 4th Respondent is to be agitated before a Competent Civil Court by the Petitioner seeking necessary reliefs in the manner known to Law and in accordance with Law. As such, this Court is not entertaining the Writ Petition filed by the Petitioner. Consequently, the Writ Petition fails.

8.In the result, the Writ Petition is dismissed, leaving the parties to bear their own costs. It is made clear that the dismissal of the Writ Petition will not preclude the Petitioner to approach the Competent Civil Court and to seek appropriate remedy against the 4th Respondent in the manner known to Law and in accordance with Law, if he so desires/advised.

Sd/-

Assistant Registrar

/true copy/

Sub-Assistant Registrar

Sgl

To

- 1.The Commissioner,
Corporation of Chennai,
Chennai - 600 003.
- 2.The Zonal Officer (X Zone),
No.64, NSK Salai, Kodambakkam,
Chennai - 600 024.

3.The Assistant Engineer,
Corporation of Chennai,
28th Circle, Kamarajar Salai,
Virugampakkam, Chennai - 600 092.

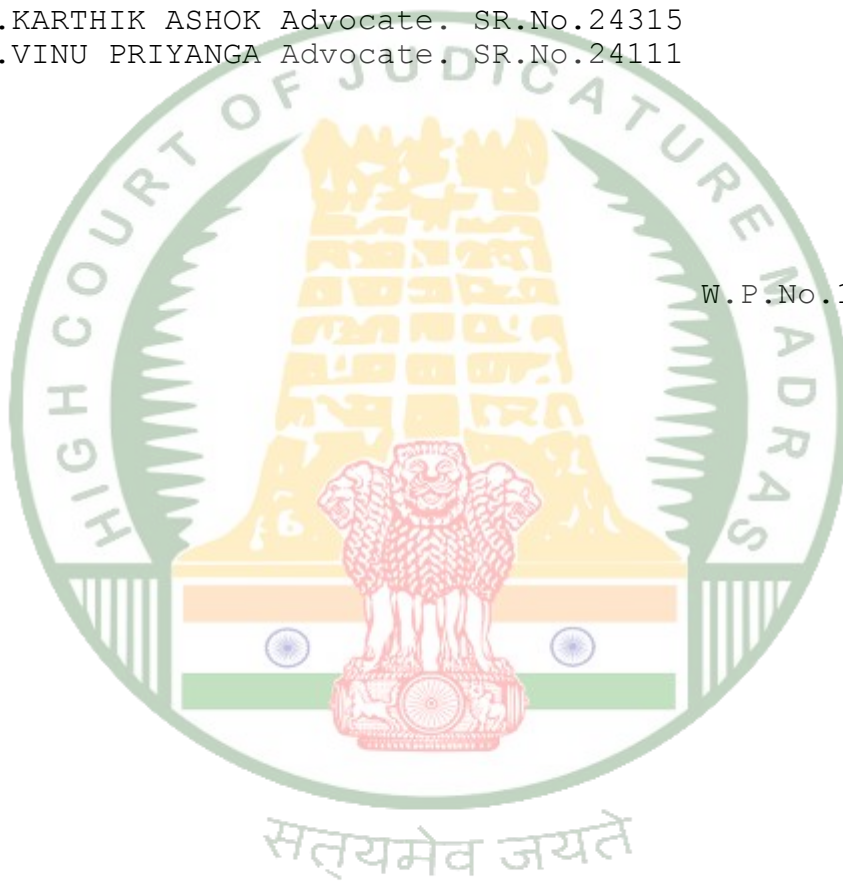
4.M/s.Trust Association of the
Advent Christian Conference,
No.37, Gangai Amman Kovil Street,
Virugampakkam, Chennai - 600 092.

+1 CC to MR.A.KARTHIK ASHOK Advocate. SR.No.24315

+1 CC to MR.R.VINU PRIYANGA Advocate. SR.No.24111

CO-LRS
JD 19/05/2015

W.P.No.13519 of 2015
30.04.2015



WEB COPY