

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14/7/2015

C O R A M

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

W.P. No.14509 of 2015
and
M.P. No.1 of 2015

Bharani Jothi Nagar Nala Sangam
rep. By its President Shaji Thomas
S/o.K.N.Thomas
Office address:
No.74/20 B Redhills High Road
Kolathur
Chennai 600 099.

...Petitioner

Vs

1. The Corporation of Chennai
Zone - 7
rep. By Zonal officer
Ambattur
Chennai 53.
2. The Revenue Inspector
Tahsildhar Office
Korattur
Ambattur Taluk
Chennai 76.
3. The Inspector of Police
T-3 Korattur Police Station
Chennai 600 080.
4. Mr.Selvakumar
5. Mr.T.Balakrishnan

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus, directing the respondents 1 to 3 to take action against the respondents 4 & 5 from putting up illegal construction of compound wall on 24 feet road leading to Barani Jothi Nagar Layout, which issue only way of the petitioner sangam to reach 200 feet ring road.

For petitioner : Ms.S.Mythreye

For respondents : Mr.A.Nagarajan for R.1

Mr.P.S.Sivashanmugasundaram
Special Government Pleader
for R.R.2 and 3.

Mr.B.Balachander
for R.R.4 and 5.

O R D E R

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

The petitioner, is an Association of the local residence. The petitioner/Bharani Jothi Nagar Nala Sangam filed this petition, seeking a direction to the respondents 1 to 3 to take action against the alleged construction of compound wall on the 24th road, leading to Barani Jothi Nagar layout.

2. Pursuant to the notice, the first respondent had filed a counter affidavit dated 9th July, 2015 stating that the site was inspected by the Corporation Officials with the help of the revenue records from the Revenue Department and on inspection, it was found that the road in question is a public road and a compound wall has been erected by way of encroachment on the public road. Accordingly, notice under provisions of Sections 56 and 57 r/w. Section 85 of the Tamil Nadu Town and Country Planning was sent on 2nd July, 2015, calling upon the alleged encroachers, to remove the encroachment within three days from the date of receipt of this notice. Thus, consequential action will be taken thereafter, on consideration of the explanation, if any filed by the respondents 4 and 5.

3. Mr.B.Balachander, learned counsel appearing for the respondents 4 and 5 submits that the Stop Work Notice dated 1st July, 2015 was sent to some other address and not to the proper address, however, the respondents have already obtained a copy of the said

notice. Pursuant to the said notice, the respondents have submitted their explanation on 7th July, 2015, pointing out the technical error in sending the notice to some other address, which is not the proper address.

4. We have heard the learned counsel for the parties and perused the materials appended thereto.

5. Indisputably, after we took cognisance of the petition, the authorities, had initiated action by issuing a Stop Work Notice on 2nd July, 2015. The respondents 4 and 5 had obtained a copy of the notice, even if it was served on a wrong address, as pleaded by the respondents. Once notice has been received by the respondents, mentioning of wrong address is of no relevance and on that basis, the said notice cannot be set aside or quashed. After receipt of the notice, the respondents have also filed their explanation on 7th July, 2015.

6. Accordingly, without expressing any opinion on the merits of the case, we direct the first respondent to take consequential action on merit, after consideration of the explanation made by the fourth and fifth respondents, at the earliest, preferably within a period of two weeks from the date of receipt of a copy of this order. In the meantime, the respondents may file additional explanation, if so advised, within a period of one week.

7. This writ petition is disposed of accordingly. No costs. Connected M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Revenue Inspector
Tahsildhar Office
Korattur
Ambattur Taluk
Chennai 76.

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2. The Inspector of Police
T-3 Korattur Police Station
Chennai 600 080.

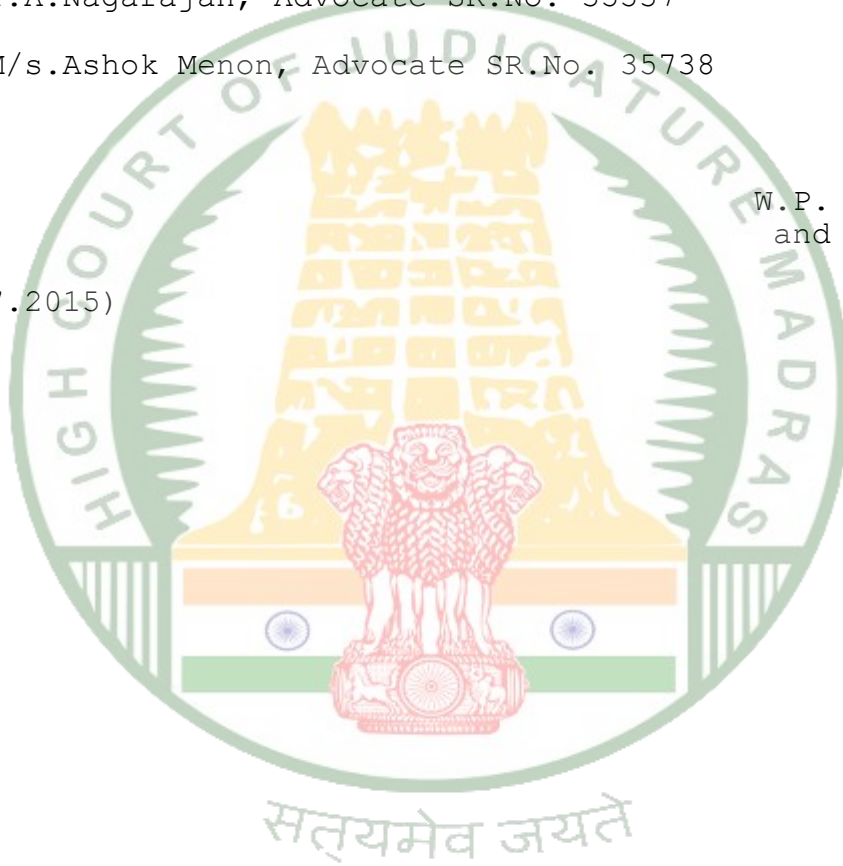
3. The Zonal Officer,
Zone - 7,
Corporation of Chennai,
Ambattur,
Chennai - 53.

1 CC to Mr.A.Nagarajan, Advocate SR.No. 35537

2 CCs to M/s.Ashok Menon, Advocate SR.No. 35738

PPA (CO)
PSI (27.07.2015)

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