

In the High Court of Judicature at Madras

Dated: 13.08.2015

Coram:

The Honourable Mr.Justice SATISH K. AGNIHOTRI
AND
The Honourable Mr.Justice K.K.SASIDHARAN

W.P.Nos.14761 to 14763 and 14633 of 2015
& connected MPs.

A. Kumar ...Petitioner in W.P.No.14761 of 2015
M. Kumar ...Petitioner in W.P.No.14762 of 2015
R. Geetha ...Petitioner in W.P.No.14763 of 2015
M. Ramakrishnan ...Petitioner in W.P.No.14633 of 2015

-Vs.-

1. The Commissioner
Corporation of Chennai
Rippon Building
Madras-3.

2. The Assistant Executive Engineer
Unit No-9, Zone No.4
Chennai Corporation
No.10/45, Krishnamoorthy Salai
Chennai -118.

3. The Tahsildar
Perambur Taluk
Chennai-11.

4. N. Mynavathy ... Respondents 1 to 4 in WP.
14761, 14762, 14763/2015

5. The District Collector
Greater Chennai
Songaravelan Maaligai
Chennai-1.

...Respondent No.5 in W.P.Nos.14761
14762 and 14763 of 2015

The Assistant Executive Engineer

Zone - IX
Corporation of Chennai
No.45/10, Krishnamoorthy Salai
Kodungaiyur
Chennai-600 118.

..Respondent in W.P.No.14633/2015

Prayer in W.P.No.14761 to 14763 of 2015: Writ Petitions filed under Article 226 of the Constitution of India praying for a Writ of Certiorari calling for the records in AEE Unit 09 Na.Ka.No.430/2015 dated 29 April 2015 on the file of the second respondent and quash the same.

Prayer in W.P.No.14633 of 2015: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the respondent dated 29 April 2015 and made in

his letter No.AEE.U-09 Na.Ka.No.430/2015 and quash the same and further direct the respondent to hold an enquiry giving an opportunity to the petitioner of being heard.

Mr.V. Bhiman
for Mr.D.T. Janardhanan : For Petitioner in W.P.No.14761
& 14762 of 2015

Mr.V. Bhiman : For Petitioner in W.P.No.14763
of 2015

Mr.T.L. Rammohan
Senior Counsel
for Mr.T. Pappiah Dharmarajan : For Petitioner in W.P.No.14633
of 2015

Mr.R. Arunmozhi : For Respondents 1 and 2 in
W.P.Nos.14761 to 14763 of 2015
& for respondent in W.P.No.14633
of 2015.

Mr. N. Sakthivel
Government Advocate : For Respondents 3 and 5 in
W.P.Nos.14761 to 14763 of 2015.

COMMON ORDER

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

The petitioners are aggrieved by the order passed by the Assistant Executive Engineer, Unit-09, Chennai Corporation on 29 April 2015 directing them to vacate the lands stated to have been in their possession by way of encroachment within a period of one week, failing which it was indicated that further action would be taken to remove the encroachment.

2. The petitioners are stated to be in possession and enjoyment of the lands situated in Tondiarpet High Road, Kodungaiyur, Chennai. They have constructed buildings and are stated to be in occupation.

3. While so, Ms.N.Mynavathy filed a writ petition in W.P.No.4121 of 2015 alleging that the petitioners have encroached into a portion of the road in Survey Nos. 181/1, 191/2, 189/2, 73/1A1 and 208 situated in T.S.No.77, Kodungaiyur Village. This High Court passed an order directing the Chennai Corporation to remove the encroachment in question within a period of six weeks. Thereafter, the Chennai Corporation initiated action and the same culminated in passing the order dated 29 April 2015.

4. It is the case of the petitioners that they have not been given proper notice by the Corporation before passing the order of eviction which would involve civil consequences to them. The petitioners are therefore before this Court.

5. We have heard the learned counsel for the petitioners in the respective writ petitions, learned Standing Counsel for Chennai Corporation, learned counsel for the fourth respondent and the learned Government Advocate.

6. There is no dispute that this Court passed an order on 5 March 2015 directing the Chennai Corporation to remove the encroachment within a period of six weeks after giving notice to the alleged encroachers. The order passed by the Chennai Corporation dated 29 April 2015 does not contain any indication as to whether notices were issued to the petitioners herein and they were given an opportunity of hearing.

7. The fourth respondent has already filed a contempt petition before this Court in Cont. Pet. No.1391 of 2015 for the purpose of taking action against the Commissioner, Chennai Corporation on account of the failure to remove the encroachment.

8. The impugned orders passed by the Chennai Corporation proceeds as if a meeting was conducted on 15 March 2015 and a decision was taken to remove the encroachment. There is nothing on record to show that the Assistant Executive Engineer considered the objections

raised by the alleged encroachers and an order on merits was passed in these matters. We are, therefore of the view that the issue requires fresh consideration by the Chennai Corporation.

9. In the result, the impugned orders are set aside. The Joint Commissioner incharge of Zone-1X is directed to consider the matter afresh. The petitioners are given two weeks time from the date of receipt of a copy of this order to submit their objections to the Joint Commissioner treating the impugned orders as show cause notices. The concerned Joint Commissioner is directed to consider the objections and pass a detailed order on merits. Such exercise shall be completed within a period of two months from the date of receipt of objections. In case the petitioners fail to submit their objections within the stipulated period, it is open to the authority to pass orders on merits and as per law.

10. The writ petitions are disposed of with the above direction. Consequently, the connected MPs are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Tr/
To

1. The Commissioner
Corporation of Chennai
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Madras-3.
2. The Assistant Executive Engineer
Unit No.-9, Zone No.4
Chennai Corporation
No.10/45, Krishnamoorthy, Kodungaiyur
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3. The Tahsildar
Perambur Taluk
Chennai-11.
4. The District Collector
Greater Chennai
Songaravelan Maaligai
Chennai-1.

5. The Joint Commissioner, Zone IX, Chennai.

- + 1 cc to Mr.T. Pappaiah Dharmarajan, Advocate Sr.42426
- + 1 cc to Mr.D.T. Janardhanam, Advocate SR.43128
- + 1 cc to Mr.A.D. Jagadish Chendira, Advocate Sr.42664
- + 1 cc to Mr.V. Bhiman, Advocate Sr.42719
- + 1 cc to Mrs. R. Arunmozhi, Advocate Sr.42650
- + 1 cc Mr.K. Mohanamurali, Advocate Sr.42646
- + 1 cc to the Government Pleader Sr.42597

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and 14633 of 2015
& connected MPs.

EV (CO)
Eu 03.09.15



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