

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-06-2015

CORAM:

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

W.P.No.15811 of 2015 and M.P.No.1 of 2015

1 N.Manikandan
S/o.K.S.Nithyanandan
No.1 Thilgavathi 2nd Street
Gangai Nagar
Kallikuppam
Ambattur
Chennai-53

Petitioner

Vs

1 Corporation of Chennai
rep. by its Commissioner Ripon Buildings
Chennai 600 003

2 The Assistant Commissioner
Corporation of Chennai
Zone VII C.T.H.Road
Ambattur, Chennai-53

3 The Regional Deputy
Commissioner (Central) Corporation of Chennai
Chennai-3

Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorari calling for the records of the 3rd respondent Z.O.VII.C.No. E1/08477/2014 dated 20.2.2015 and quash the same.

For petitioner :: Mr. S. Jayakumar
For respondents :: Mrs. Karthikaa Ashok

ORDER

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

Heard Mr. S. Jayakumar, learned counsel for the petitioner and Mrs. Karthikaa Ashok, learned Standing Counsel for the respondents. With the consent of the learned counsel for the parties, the writ

petition is taken up for final disposal, at the admission stage itself.

2. Assailing the legality and validity of the notice dated 20-02-2015 sent by the Regional Deputy Commissioner (Central), the petitioner has come up with the present writ petition on the ground that he has not caused any encroachment on OSR land as alleged in the notice. He is a lawful owner of the property in question and there is no encroachment on any land and also, there is no obstruction to any extent. The impugned notice purportedly had been issued under Section 220 read with Section 222 of the Chennai City Municipal Corporation Act, 1919 (for short "the Act"). In fact, the petitioner is entitled to a show cause notice under Section 222 of the Act, before an order, instructing the petitioner for the removal of the alleged structure, is passed. The petitioner has no opportunity to put forward his case in respect of the alleged encroachment. Thus, the petitioner may be granted some time to put forward his case before the final order is passed by the authorities for alleged encroachment as well as the removal thereon.

3. Mrs. Karthikaa Ashok, learned Standing Counsel appearing for the Corporation clearly submits that the impugned notice be treated as show cause notice, as no step has been taken to remove the encroachment. The petitioner may be given an opportunity to place his case before the authorities and thereafter, the respondent shall take steps to remove the encroachment, if it is found on consideration of the petitioner's representation that the encroachment really exists.

4. In view of the foregoing, we deem it fit and proper to dispose of the matter, at this stage, without expressing any opinion on merits of the case. Accordingly, we grant two weeks' time to the petitioner to put forward his case before the authorities, by making proper representation along with relevant documents. Thereafter, the authorities would be at liberty to pass orders and take appropriate steps as required under law. Such exercise shall be completed within a period of two weeks on receipt of the representation.

5. With the aforestated directions, the writ petition is disposed of. No costs.

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Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

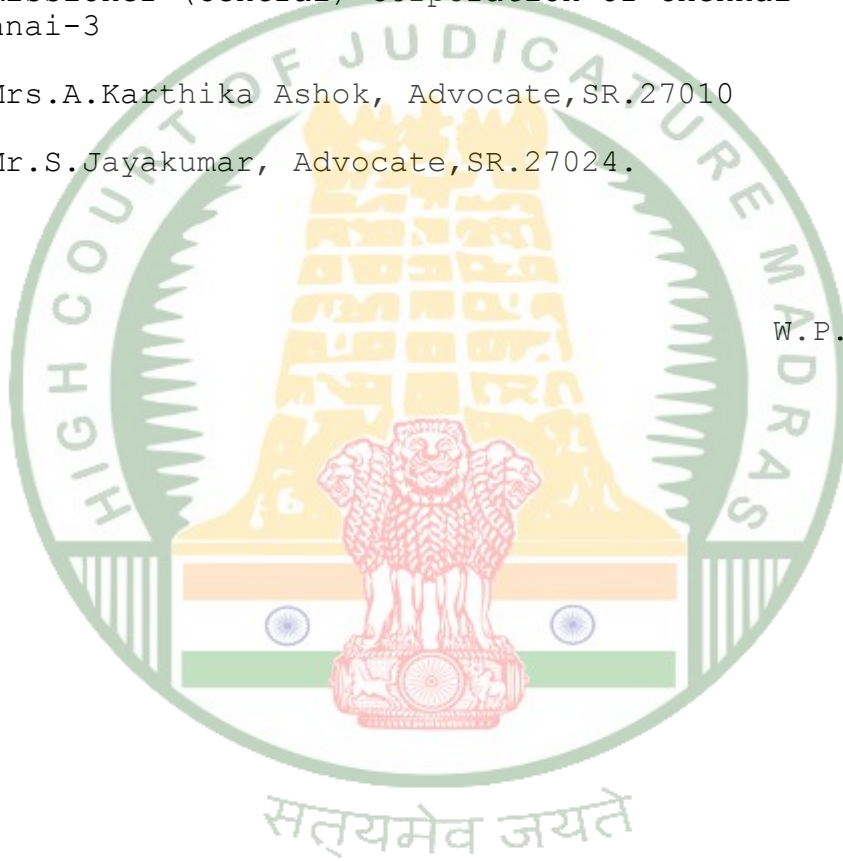
- 1 Commissioner , Corporation of Chennai
Ripon Buildings
Chennai 600 003
- 2 The Assistant Commissioner
Corporation of Chennai
Zone VII C.T.H.Road
Ambattur, Chennai-53
- 3 The Regional Deputy
Commissioner (Central) Corporation of Chennai
Chennai-3

+1 cc to Mrs.A.Karthika Ashok, Advocate,SR.27010

+1 cc to Mr.S.Jayakumar, Advocate,SR.27024.

Ts(co)
krd 11/6

W.P.No.15811 of 2015



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