

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.16793 of 2015

K.Neelakandan

... Petitioner

Vs.

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi Irwin Road,
Egmore, Chennai-600 008.
2. The Commissioner,
Corporation of Chennai,
Ripon Building, EVR Salai,
Chennai-600 003.
3. The Executive Engineer, Zone-V,
Corporation of Chennai,
No.266, T.H.Road, Old Washermenpet,
Chennai-600 021.
4. L.Anandraj
5. L.Rajasekhar
6. L.Parameshwari.

... Respondents

The Writ Petition is filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 3 to take appropriate action against the fourth to sixth respondents for construction of unauthorised building at No.14, Elaya Mudali Street, 3rd Street, Old Washermenpet, Chennai-600 021 without providing passage to the petitioner for his ingress and egress and consequently act in accordance with the provisions of Sections 56 and 57 of the Tamilnadu Town and Country Planning Act, 1971.

For petitioner : Mr.D.O.Kaviyanathan
for M/s.Nathan and Asso.

For Respondents : Mr.C.Johnson for R-1
Mrs.Karthika Ashok for RR2 and 3

ORDER

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

By the instant petition, the petitioner seeks a direction to the respondents 1 to 3 to take action against respondents 4 to 6 for the alleged construction of unauthorised building at No.14, Elaya Mudali Street, 3rd Street, Old Washermenpet, Chennai.

2. The facts of the case, as projected by the petitioner, are that the father of the petitioner had original leasehold rights on the property situated at No.14, Elaya Mudali Street, 3rd Street, Old Washermenpet, Chennai, admeasuring about 1225 sq.ft.. The said right was bequeathed to the petitioner by execution of testamentary will along with K.Loganathan, K.Kumar, K.Bhuvaneswari and K.Lakshmi, his children. Respondents 4 to 6, who are claiming to be the owner through their father K.Loganathan, had started making illegal construction without obtaining proper approval from the first respondent. A representation was made to the second and third official respondents, on 15.12.2012. However, no action has been taken till date. A civil suit, being O.S.No.7486 of 2012, was filed by the petitioner in the Civil Court, which was subsequently withdrawn. A copy of the plaint is enclosed with the writ petition, wherein it is manifest that the civil suit was filed for permanent injunction against respondents 4 to 6.

3. On consideration of the aforestated facts and also the facts arrived at from the pleadings and other documents, it is evident that the entire dispute is among brothers and sisters in the nature of private dispute. The petitioner is seeking a direction against the authorities to intervene in the private dispute and to stop the construction, seemingly, on the portion of the land, which may be a part of joint family. In view of the aforestated facts, it is a clear case of family dispute involving disputed question of facts and as such, beyond the scope of writ jurisdiction under Article 226 of the Constitution of India.

4. As a result, the writ petition is dismissed as not maintainable, reserving liberty to the petitioner to take recourse to appropriate forum, as advised, under the provisions of law. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Member Secretary,
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Egmore, Chennai-600 008.
2. The Commissioner,
Corporation of Chennai,
Ripon Building, EVR Salai, Chennai-600 003.
3. The Executive Engineer, Zone-V,
Corporation of Chennai,
No.266, T.H.Road, Old Washermenpet,
Chennai-600 021.

+1cc to Mr.C.Johnson, Advocate, S.R.No.29097
+1cc to M/s.A.Karthika Ashok, Advocate, S.R.No.29121
+1cc to M/s.Nathan and Associates, Advocate, S.R.No.29396

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BR(CO)
CA(24/06/2015)

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