

In the High Court of Judicature at Madras

Dated: 20.07.2015

Coram:

The Hon'ble Mr.Justice SATISH K. AGNIHOTRI
and
The Hon'ble Mr.Justice M.VENUGOPAL

W.P.No.21600 of 2015

K.K.Ramesh

.. Petitioner

Vs.

1. The Commissioner
Corporation of Chennai
Ripon Buildings,
Chennai - 600 003

2. The Assistant Executive Engineer,
Zone XI, Corporation of Chennai,
Valsaravakkam,
Chennai - 600 087

3. J.Renuga

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Mandamus directing the Respondents 1 and 2 to revoke the Building Permit granted to the 3rd Respondent herein and remove the unauthorized construction being put up by the 3rd Respondent at No.3, Agasthiar Street, West Kamakoti Nagar, Valasaravakkam, Chennai - 600 087, in view of the Petitioner's Representation dated 04.09.2014 and pass such further or other orders.

For Petitioner : Mr.J.Ashok

O R D E R

[Order of the Court was Delivered By M.VENUGOPAL, J.]

The Petitioner has preferred the instant Writ Petition praying for passing of an Order by this Court in directing the Respondents 1 and 2 to revoke the Building Permit granted to the 3rd Respondent and to remove the unauthorised construction put up by her at Door No.3, Agasthiyar Street, Valasaravakkam, Chennai - 600 087 in view of the Petitioner's representation dated 04.09.2014.

2. According to the Petitioner, the residence was actually a vacant land purchased by his father, K.Kannan during the year 1984. His father, after purchasing the vacant land had put up super structure in the year 1998 from and out of his own funds. Further, his father had bequeathed the premises in his favour by means of a

Will dated 26.11.1999. Moreover, his father died on 10.07.2001 and he sought a Probate of the Will before this Court in O.P.No.299 of 2004 and since his brother and sister contested the matter, the Original Petition was converted into Testamentary Original Suit in T.O.S.No.13 of 2005 and a Judgment was passed in the said T.O.S in his favour on 23.12.2005. After obtaining the Decree in T.O.S.No.13 of 2005, he effected the name change in the Public Records.

3.The stand of the Petitioner is that the 3rd Respondent had purchased an immovable property located on the Western Side of his house in the year 2005. On 09.05.2011, all of a sudden, the 3rd Respondent and her husband had brought with them their henchmen and an Earth Mover and demolished the compound wall of his premises and further excavated a portion of his premises. He filed a complaint before the Police and the same was taken on file and consequently Charge Sheet was filed in C.C.No.315 of 2011 on the file of Learned Judicial Magistrate No.I, Poonamallee.

4.It comes to be known that the 3rd Respondent had filed a Suit for Permanent Injunction against the Petitioner in O.S.No.176 of 2012 on the file of Learned District Munsif, Poonamallee and the same is pending. Also that the Petitioner had filed a suit in O.S.No.386 of 2014 on the file of Learned District Munsif, Poonamallee to declare the Sale Deeds in favour of 3rd Respondent as null and void. It appears that the 'Status Quo' Order was passed against the 3rd Respondent on an Application for Injunction filed by the Petitioner.

5.The real grievance of the Petitioner is that he made a representation dated 04.09.2014 to the 1st and 2nd Respondents praying for an inspection of the subject premises and to cancel the Building Permit granted to the 3rd Respondent. But the Respondents/Authorities had not acted in accordance with law. Further, it is represented on behalf of the Petitioner that the 3rd Respondent is proceeding with an illegal and unauthorised construction in a quick pace. Apart from that the Petitioner in the present Writ Petition had taken a stand that the building permission granted by the Respondents/ Authorities to the 3rd Respondent is to be revoked in view of his representation dated 04.09.2014 and further the unauthorised construction put up by the 3rd Respondent has to be removed forthwith.

6.On a careful consideration of the contentions advanced on behalf of the Petitioner, this Court is of the considered opinion that the Suit filed by the 3rd Respondent seeking the relief of Permanent Injunction against the Petitioner is pending on the file of Learned District Munsif, Poonamallee. Likewise, the Suit in O.S.No.386 of 2014 filed by the Petitioner against the 3rd Respondent seeking to Declare the Sale Deeds in favour of 3rd Respondent as null and void is pending on the file of Learned District Munsif, Poonamallee.

7. In as much as the respective parties have approached the competent Court of Law by filing the Civil Suits as referred to supra and the same being pending as on date, this Court is of the considered view that the proper course of action for the Petitioner is to await for the outcome of the pending Civil Suits. Further, this Court opines that the Petitioner cannot maintain parallel proceedings one before the Civil Court and by filing the present Writ Petition. Viewed in that perspective this Court holds that the Writ Petition filed by the Petitioner is a premature and OTIOSE One. Consequently, the Writ Petition fails.

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 present Writ Petition will not preclude the Petitioner to raise all factual and legal issues before the Learned District Munsif, Poonamallee where the two suits referred to earlier are pending.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

ssd

To

1. The Commissioner
Corporation of Chennai
Ripon Buildings,
Chennai - 600 003
2. The Assistant Executive Engineer,
Zone XI,
Corporation of Chennai,
Valsaravakkam,
Chennai - 600 087

3. The District Munsif,
Poonamallee.

+1 cc to Mr.J.Ashok, sr.36525
+1 cc to Mr.R.Arunmozhi, sr.37095

W.P.No.21600 of 2015

tm(co)
kra(04/08)