

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE DR.JUSTICE P. DEVADASS

W.P.Nos.35426 & 35427 of 2015
and
M.P. Nos. 1 of 2015

A. Kumar Petitioner
(WP No.35426/2015)

M. Kumar Petitioner
(WP No.35427/2015)

Vs

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

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

3 The Zonal Officer IV
Zone IV Corporation of Chennai No.226
Thiruvottiyur High Road Old Washermenpet
Chennai-21.

4 The Tahsildar
Perambur Taluk Chennai-11.

5 M.Mynavathy
W/o.Natarajan No.1 Subramanian Street
Near Meenambal Street Krishnamoorthy Nagar
Chennai-11.

- 6 The District Collector
Greater Chennai Singaravelan Maaligai
Chennai-1.
- 7 The Joint Commissioner
Incharge Zone-IX Corporation of Chennai
Chennai. ... Respondents
(In both W.Ps.)

Writ petitions filed under Article 226 of the Constitution seeking for the issuance of a writ of Certiorari to call for the records in Z.O.IV.C.No.6980/2015, dated 15.10.2015 on the file of the third respondent and quash the same.

For Petitioner : Mr.S. Lokesh

For Respondents: Mr. R. Arunmozhi
R1 to R3 & R7
Mr. P.S.Sivashanmugasundaram
Spl. Govt. Pleader - R4 & R6

COMMON ORDER

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

Mr.R. Arunmozhi, learned counsel, accepts notice for the respondents 1 to 3 and 7. Mr. P.S.Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the respondents 4 and 6. Notice to the fifth respondent is dispensed with at this stage, as no adverse order is passed against her in these writ petitions. Thus, with the consent of the learned counsel for the petitioners and the learned counsel for the official respondents, the writ petitions are taken up for final disposal, at the admission stage itself.

2 These writ petitions are filed impugning the orders dated 15.10.2015 of the third respondent, wherein, a decision was taken to request the Tahsildar, Perambur to make demarcation to identify the encroachment area by the encroachers and a further decision was taken that after survey and demarcation, if necessary, the process for removal of the encroachment may be initiated under Section 20 read with Section 222 of Chennai City Municipal Corporation Act, 1919. The operative portion of the said orders reads as under:-

" In order to evict the encroachment, the Tahsildar, Perambu Taluk has been requested to demark and identify the encroachment area by the encroachers in order to comply the Hon'ble High Court. The Tahsildar, Perambur Taluk has informed to measure and demark the encroachment area on 09.10.2015 due to special scheme work, they were unable to come and inform that they will come on 10.10.2015. The surveyor of Perambur Taluk started demarking the boundary of the road on 10.10.15 and was stopped due to the resistance from the encroachers. Hence it was decided to continue the demarking on 12.10.2015 with police protection. After demarking the encroachment area, proper notice under Section 220 r/w 222 of CCMC 1919 IV Act will be issued according to the provisions of the CCMC Act to remove the encroachment, after the expiry of the statutory period and the expenditure will be recovered from the encroachers."

3. The sole contention of the petitioners is that in these orders, certain observations have been made to brand the petitioners as encroachers. In fact, the petitioners are not encroachers.

4. Be that as it may, these are general observations, but, the actual fact of encroachment or otherwise, would arise only after demarcation is made. The petitioners will have an opportunity of hearing, if it is found that they are in encroachment and as such, no cause of action has arisen at this stage. Thus, in the considered opinion of this Court, these writ petitions are frivolous and premature.

5. Resultantly, the writ petitions stand dismissed. No costs. Connected miscellaneous petitions are dismissed.

सत्यमेव जयते

-s/d-

Assistant Registrar

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Sub-Assistant Registrar

ra
To

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- 6 The Joint Commissioner
Incharge Zone-IX Corporation of Chennai

+1 cc to Mr.R.Arunmozhi Advocate sr.60022
+2 ccsto Mr.S.Lokesh Advocate sr.60354 & 60355
+1 cc to the Government Pleader High Court,
Madras sr.60295

W.P. Nos.35426 & 35427 of 2015

jsv(co)
aa24/11/2015

सत्यमेव जयते

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