

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI

AND

THE HON'BLE MR.JUSTICE B. RAJENDRAN

W.P. No.32204 of 2015

J. Suresh Kumar

..Petitioner

Vs

1. The Commissioner
Corporation of Chennai
Ripon Buildings
Chennai 600 003
2. The Joint Commissioner - South
Corporation of Chennai
Adyar, Chennai 600 020
3. The Joint Commissioner
Hindu Religious and Charitable Endowment Board
Nungambakkam
Chennai 600 034
4. The Executive Officer
Arulmighu Dhandeeswarar Tirukoil
Karunambigai Temple
Velachery
Chennai 600 042

5. K. Vinod Kumar

..Respondents

Writ Petition filed under Article 226 of the Constitution seeking a writ of mandamus directing the second respondent to consider and pass orders on the petitioner's representation dated 06 March 2014 and forthwith remove the encroachment made by the fifth respondent in Door No.7/15, Survey No.129, Karunambigai Colony, Velachery, Chennai 600 042.

For petitioner : Ms. P.T. Asha
for M/s. Sarvabhauman Associates

For RR 1 & 2 : Mr.V.C. Selvasekaran,
Standing Counsel

For RR 3-5 : Mr. K.V. Dhanapalan,
Addl. Govt. Pleader

ORDER

(delivered by SATISH K. AGNIHOTRI,J.,)

Mr. V.C. Selvasekaran, learned Standing Counsel, accepts notice for respondents 1 and 2. Mr. K.V. Dhanapalan, learned Additional Government Pleader, accepts notice for respondents 3 to 5. 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. This writ petition is filed seeking a writ of mandamus directing the second respondent to consider and pass orders on the petitioner's representation dated 06 March 2014 and remove forthwith, the encroachment made by the fifth respondent in Door No.7/15, Survey No.129, Karunambigai Colony, Velachery, Chennai 600 042.

3. Admittedly, the issue involved herein is the subject matter of dispute pending between the parties in a civil suit, being O.S.No.5672 of 2013 on the file of the XIII Assistant City Civil Court, Chennai. The said suit has been preferred by the fifth respondent herein arraigning the petitioner herein and respondents 3 and 4 herein, besides the Commissioner, H.R. & C.E. Department, as party defendants. In the said suit, the following relief has been sought:

i. Declaration that the plaintiff is the tenant in respect of the suit schedule property under the third defendant;

ii Permanent injunction restraining the defendants, their men, agents or servants or anybody either claiming under or through them in any way and in any manner from unlawfully dispossessing the plaintiff's possession and enjoyment of the suit schedule property either by getting the tenancy of various tenants in the suit schedule property attorned in the name of the third defendant temple or in any other manner, except by due process of law by complying with the provisions of the Tamil Nadu Hindu Religious and Charitable Endowment Act.

4. Thus, pending the aforesaid suit, the mandamus, as sought by the petitioner, cannot be granted. However, we make it clear that the official respondents are not precluded from examining the structure in question, which is alleged to be an encroachment and take appropriate action on merits and in accordance with law, if it is found that the same is unapproved and without authority of law.

5. The writ petition stands disposed of with the above observation. Costs made easy.
Cad

Sd/-
Assistant Registrar (CS)

/True Copy/

Sub-Assistant Registrar

To

- 1 The Commissioner
Corporation of Chennai
Ripon Buildings
Chennai 600 003
- 2 The Joint Commissioner - South
Corporation of Chennai
Adyar, Chennai 600 020
- 3 The Joint Commissioner
Hindu Religious and Charitable Endowment Board
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- 4 The Executive Officer
Arulmighu Dhandeeswarar Tirukoil
Karunambigai Temple
Velachery, Chennai 600 042

+1 C.C. To MR.Sarvabhauman Associates, Advocate in SR.NO.55333

+1 C.C. To Government Pleader in SR.NO.55590

W.P.No.32204 of 2015

RSK(CO)
sd : 19/10/2015

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