

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.35282 of 2015 and M.P.No.1 of 2015

E.Pakkirisamy

...Petitioner

Vs

1. The Commissioner,
Corporation of Chennai
Ripon Building, Chennai - 3
2. The Executive Engineer,
(Zone-VIII)
Corporation of Chennai
Ayanavaram, Chennai - 23
3. The Asst. Executive Engineer
(Zone VIII)
Corporation of Chennai
Ayanavaram, Chennai - 23

...Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents not to construct any new construction in the public street and in front side of the petitioner's constructing house at Old No.5, New No.7, Veerasamy Main Street, Ayanavaram, Chennai - 600 023 comprised in Survey Nos.131 and 132 of Ayanavaram Village, Ayanavaram Taluk.

For Petitioner : Mr.A.T.Jayaraman

For Respondents : Mr.P.V.Selvakumar

O R D E R

Heard Mr.A.T.Jeyaraman, learned counsel appearing for the petitioner and Mr.P.V.Selvakumar, learned counsel appearing for the respondents. With the consent of either side, the Writ Petition itself is taken up for final disposal at the admission stage.

2. The petitioner has filed this Writ Petition praying for issuance of Writ of Mandamus directing the respondents not to construct any new construction in the public street in front side of petitioner's house under construction at Old No.5, New No.7, Veerasamy Main Street, Ayanavaram, Chennai - 600 023 comprised in Survey Nos.131 and 132 of Aynavaram Village, Ayanavaram Taluk.

3. The learned counsel for the petitioner submits that if the construction is permitted to be done by the Corporation, his right of entry into the property will be effected.

4. The learned counsel appearing for the respondents accepts notice on behalf of the respondents and invites the attention of this Court to the petitioner's representation dated 28.09.2015 wherein the petitioner apprehends that there will be construction in the front side of his house and as such there is no construction as on date.

5. In reply, the learned counsel for the petitioner produced two photographs to show that the building materials have already been stored and construction is to commence at any point of time.

6. In any event, this disputed question of fact cannot be gone into in a Writ Petition and it is to be examined by the authorities as to whether the proposed construction by the Corporation is in a public street. It is seen that the petitioner has sent representation through his counsel on 15.10.2015 which has been acknowledged by the 3rd Respondent on 19.10.2015.

7. In the light of the above, without going into the merits of petitioner's contention, there will be a direction to the 2nd respondent to consider the petitioner's representation sent through counsel dated 15.10.2015, conduct an enquiry by calling upon the petitioner to appear in person and produce all documents of title along with FMB Sketch etc., and take a decision and pass a reasoned order on merits and in accordance with law within a period of three weeks from the date of receipt

of copy of a order. Till the orders are passed in the petitioner's representation, the respondent shall not effect any construction in the said area, if there is any proposal to do so.

With the above direction, this Writ petition is disposed of. Consequently connected miscellaneous petition is closed. No costs.

sd/
ASSISTANT REGISTRAR (CCC)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

ssd

To

1. The Commissioner,
Corporation of Chennai
Ripon Building, Chennai - 3
2. The Executive Engineer,
(Zone-VIII)
Corporation of Chennai
Ayanavaram, Chennai - 23
3. The Asst. Executive Engineer
(Zone VIII)
Corporation of Chennai
Ayanavaram, Chennai - 23

+1 CC to MR. A.T.Jayaraman Advocate. SR.NO.60274
+1 CC to MR. P.V.Selvakumar Advocate. SR.NO. 60213

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CO-CA
JD 06/11/2015

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