

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2015

CORAM:

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

W.P. No.37160 of 2015 and M.P. No.1 of 2015

R. Geetha

Petitioner

vs.

- 1 The Commissioner
Corporation of Chennai
Ripon Building
Madras - 3
- 2 The Assistant Executive Engineer
Unit No.9, Zone No.4
Chennai Corporation
No.10/45, Krishnamoorthy Salai
Chennai 600 118
- 3 The Zonal Officer IV
Zone IV, Corporation of Chennai
No.226, Thiruvottiyur High Road
Old Washermenpet
Chennai 600 021
- 4 The Tahsildar
Perambur Taluk
Chennai 600 011
- 5 M. Mynavathy
- 6 The District Collector
Greater Chennai
Singaravelan Maaligai
Chennai - 1
- 7 The Joint Commissioner
In charge of Zone IX
Corporation of Chennai
Chennai - 3

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus 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. V. Bhiman

For RR 1-3 and 7 Mr. P.H. Arvinth Pandian
Additional Advocate General
assisted by Mr. A. Nagarajan

For RR 4 & 6 Mr. N. Sakthivel
Government Advocate

For R5 Mr. K. Mohanamurali

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Questioning the correctness of the order dated 15 October 2015 passed by the third respondent, whereby and whereunder, demarcation and removal of encroachments were ordered, the petitioner has filed the instant writ petition.

2 The facts, in a capsule, as projected by the petitioner, are that earlier, she filed a writ petition being W.P.No.14763 of 2015 challenging the order passed by the second respondent herein, viz., the Assistant Executive Engineer, Unit No.9, Zone No.4, Chennai Corporation, whereby and whereunder, she was directed to vacate the land stated to have been in her possession by way of encroachment. Similarly placed persons also filed W.P. Nos.14761, 14762 and 14633 of 2015. All the four writ petitions were taken up together by a Division Bench of this Court, wherein, one of us (Satish K.Agnihotri,J.) was a Member. Finding that there was nothing on record to show that the petitioners' objections were considered and orders were passed on merits, the said writ petitions were disposed of by a common order dated 13 August 2015 in the following terms:

"9. In the result, the impugned orders are set aside. The Joint Commissioner in charge of Zone-IX is directed to consider the matter afresh. The petitioners are given two weeks time from the date of receipt of a copy of this order to submit their objections to the Joint Commissioner treating the impugned orders as show cause notices. The concerned Joint Commissioner is directed to consider the objections and pass a detailed order on merits. Such exercise shall be completed within a period of two months from the date of receipt of objections. In case the petitioners fail to submit their objections within the period, it is open to the authority to pass orders on merits and as per law."

3 In pursuance of the aforesaid order, the third respondent vide communication dated 25 September 2015, called upon the petitioner to appear in person for an enquiry on 01 October 2015. Accordingly, the petitioner appeared for enquiry on the fixed date. However, the third respondent, without verifying the records, passed the impugned order, ordering demarcation and removal of encroachments. Hence, the present writ petition.

4 When the instant writ petition came up for admission on the 23rd ultimo, this Bench issued notice in the following terms:

"x x x x x x x x"

2. The petitioner, relying on the order dated 15.10.2015 passed by the third respondent, which is sought to be impugned in this writ petition, submits that despite a clear direction to the Joint Commissioner of the concerned Zone, the Zonal Officer, Zone IV, having no jurisdiction, has caused the land surveyed and demarcated by a Tahsildar, giving a go by to the direction of this Court.

3. Issue notice to the respondents returnable by 03 December 2015. Let the Joint Commissioner, Zone IX, Chennai Corporation, be present in the Court and explain. Post on 03.12.2015."

5 During the subsequent hearing on the 3rd instant, it was brought to the notice of this Court that there is no post called "Joint Commissioner, Zone - IX" and instead, it is the Regional Deputy Commissioner (North), Unit - 9, Zone IV, who is the in-charge for the area in question. Accordingly, the Regional Deputy Commissioner (North), Unit 9, Zone IV was directed to file response to the observation made by this Court on the 23rd ultimo.

6 In response, the Chennai Corporation has filed a counter affidavit stating that that there is no post of Joint Commissioner-Zone IX and the area in question falls within the territorial jurisdiction of the Regional Deputy Commissioner (North), Unit 9, Zone-IV. While conducting survey, discrepancies were found in the records and as such, a detailed letter was sent to the Land Revenue, Survey and Settlement Department for clarifying the classification and ownership of the land particulars in T.S. No.77, Block No.48, Survey No.181/1, 181/2, 189/1, 2, 73/1A1 and 208 of Kodungaiyur Village.

7 Be that as it may, the impugned order clearly states that after survey and demarcation, a proper notice under Section 220 read with Section 222 of the Chennai City Municipal Corporation Act, 1919, will be issued to the encroachers, including the petitioner herein and that after affording an opportunity of hearing, consequential action shall be taken within the statutory period prescribed under the said Act.

8 In view of the foregoing, nothing survives for adjudication in this writ petition, except directing the authorities concerned to complete the entire exercise within a period of six weeks from the date of receipt of a copy of this order.

The writ petition stands disposed of with the above observation and direction. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

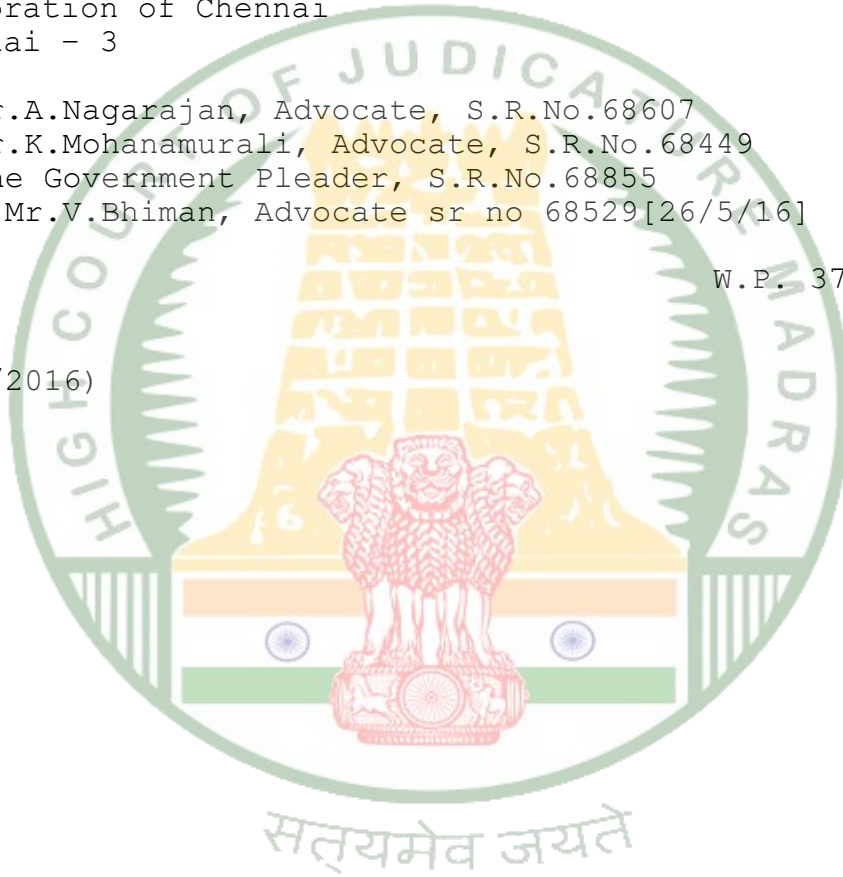
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+1cc to Mr.A.Nagarajan, Advocate, S.R.No.68607
+1cc to Mr.K.Mohanamurali, Advocate, S.R.No.68449
+1cc to the Government Pleader, S.R.No.68855
+ 1 cc to Mr.V.Bhiman, Advocate sr no 68529[26/5/16]

W.P. 37160 of 2015

vgi (CO)
srg (07/01/2016)



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