

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.02.2015

Coram :

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No 3761 OF 2015

and

MP.No.1 of 2015

Mrs. N. Kokila

.. Petitioner

vs.

The Assistant Zonal Engineer (Highways),
Chennai Metro Development Scheme,
Inner Zone - 4, Zone -2,
V.V.Koil Street,
Saidapet, Chennai 600 015.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus forbearing the respondent, his agents, servants or anybody acting under or in trust for him, from in any manner demolishing the superstructure in premises Door No.1/20, Plot No.29, M.K.Ponnan Street, Annai Anjugam Nagar, Erukkancherry, Chennai 600 118, total extent of 1161 sq.ft and from disturbing the petitioner's peaceful possession and enjoyment of the same.

For Petitioner : Mr.N. Suresh
For Respondents : Mr. R. Vijayakumar
Addl. Govt. Pleader

O R D E R

Heard the learned counsel for the petitioner and learned Additional Government Pleader appearing for the respondent.

2. With the consent of both parties, this writ petition is taken up for hearing at the stage of admission itself.

3. The petitioner has filed the writ petition praying for issuance of Writ of Mandamus forbearing the respondent from demolishing the superstructure of her Premises at Door No.1/20, Plot No.29, M.K.Ponnan Street, Annai Anjugam Nagar, Errukancherry, Chennai and from disturbing the petitioner's peaceful possession.

4. According to the petitioner, the respondent department is attempting to forcibly dispossess of the petitioner from the patta land. In this regard, a notice was issued to the petitioner on

6.2.2015 and this has prompted the petitioner to approach this court by way of filing this writ petition.

5. According to the petitioner, she is the absolute owner of the land measuring an extent of 1161 sq.ft., which was bequeathed in favour of the petitioner by virtue of a registered Will dated 5.5.1985. The petitioner is said to have obtained patta in her name bearing Old Patta No.131, New Patta No.3 and from 2004, she is residing in the said property, put up pucca construction. Whiles, suddenly, the respondent has issued the notice and called upon the petitioner to vacate and handover possession within a period of seven days.

6. On a perusal of the notice dated 6.2.2015, it is seen that the respondent department has stated that the eviction proceedings initiated earlier in 2012 has been stopped on the ground that the petitioner stated that it is a patta land.

7. Learned Additional Government Pleader, on instructions from the Assistant Divisional Engineer (H), Chennai Metropolitan Development Plan Sub Division IV, Chennai-15, submitted a status report stating that the land is required for construction of the Grade Separator at Moolakkadai junction and all the foundation and superstructure works have been completed and finishing work is in progress and the probable date of completion of Bridge work has been fixed as 30.06.2015 and the building mentioned in the writ petition is posing an obstruction to the construction of service road and storm water drain on the left hand side of the Bridge.

8. Further, it is submitted that the petitioner has not made any representation or reply to the notice issued and on producing the required documents, due process as per provisions will be followed. Therefore, it is submitted that in public interest, the land is required and 75% of the work is already completed and therefore the respondent prays for dismissal of this writ petition.

9. Photograph of the work which is in progress has been produced by the respondent which shows that substantial amount of work is already over and foundation works are going on and all that remains to be done is to form the service road and the storm water drainage.

10. As admitted by the respondent, the respondent is willing to consider the documents produced by the petitioner, but they would state that the petitioner has not given objections/reply to the notice.

11. In the light of the above, there will be a direction to the petitioner to submit his reply to the notice dated 6.2.2015 within a period of 15 days from the date of receipt of a copy of this order and on receipt of the reply, the respondent shall afford an opportunity of personal hearing to the petitioner, in which the petitioner shall appear and produce all the documents and records

to support her claim for title over the property and the respondent, after considering the same, shall pass appropriate orders on merits in accordance with law within a period of 15 days from the date on which personal hearing is concluded.

12. Till the proceedings are concluded, as per the above direction, status quo prevailing as on date, shall be maintained.

13. The Writ Petition is disposed of in the above terms. No costs. Consequently, connected M.P.No.1 of 2015 is closed.

Sd/-

Assistant Registrar

Dated:23.2.15

True Copy

Sub Assistant Registrar

To

The Assistant Zonal Engineer (Highways),
Chennai Metro Development Scheme,
Inner Zone - 4, Zone -2,
V.V.Koil Street,
Saidapet, Chennai 600 015.

+2 cc's to Mr.N.Suresh, Advocate, SR.9544.

sv(co)
krd 23/2

W.P.No 3761 OF 2015

सत्यमेव जयते

WEB COPY