

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.4121 of 2015

N. Mynavathi

Petitioner

Vs.

1 The Collector
Chennai District, Chennai 600 001

2 The Tahsildar
Perambur Taluk, Chennai 600 011

3 The Commissioner
Corporation of Chennai
Ripon Buildings, Chennai 600 003

4 The Assistant Executive Engineer
Corporation Zone IX
Krishnamurthy Salai
Kodungiyur
Chennai 600 118

5 The Chairman
Tamil Nadu Electricity Board
Anna Salai, Chennai 600 002

6 Tamil Nadu State Marketing Corporation
Thalamuthu Natarajan Maligai
Egmore, Chennai 600 008

7 The Commissioner of Police
Vepery, Chennai 600 003

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to take immediate steps to remove the encroachment in Block No.48, Survey No.181/1, 181/2, 189/2,

73/1A1 and 208 comprised in Town Survey No.77, Kodungiyur Village, within Perambur Taluk, Chennai 600 011, thereby, implementing the orders of the fourth respondent dated 14.11.2013 within a time-frame.

For petitioner Mr. K. Mohanamurali

For RR 1,2 and 7Mr. P.S. Sivashanmugasundaram
Special Government Pleader

For RR 3 and 4 Mr. G. Anantharangan

ORDER

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

This writ petition is filed seeking a writ of mandamus to take immediate steps to remove the encroachment in Block No.48, Survey No.181/1, 181/2, 189/2, 73/1A1 and 208 comprised in Town Survey No.77, Kodungiyur Village, within Perambur Taluk, Chennai 600 011, thereby, implementing the order dated 14.11.2013 passed by the fourth respondent, within a time-frame.

2 The Assistant Executive Engineer, Corporation of Chennai, the fourth respondent herein, has filed counter affidavit on 02.03.2015, wherein, it has been stated at paragraph no.10 as under:

"I submit that, after demarking by the Taluk office at the encroached portion of T.H. Road in front of the petition property, the Corporation will remove the encroachment with the help of Tahsildar and police within a short period."

3 The Tahsildar, the second respondent herein also, has filed counter affidavit, stating therein that the property in question has been classified as "Pattai" and that if any encroachment is made as alleged by the petitioner, the same is to be removed by the third respondent, viz., the Chennai Corporation. The relevant portion of the said counter affidavit filed by the second respondent runs thus:

"3. It is humbly submitted that the survey number mentioned in the writ petition i.e., Block No.48, Survey No.181/12, 181/2, 189/2, 73/1A1 and 208 in Town Survey No.77, Kodungaiyur Village within Perambur Taluk, Chennai - 11 is classified as "Pattai", in use "Road" and in remarks column shown as "Chennai Corporation". It is humbly submitted that the said suit property is being

maintained by the third respondent herein and comes within its jurisdiction. Hence, if any encroachment is made as alleged by the writ petitioner herein is to be evicted by the third respondent herein."

4 In view of the above stand taken by the Tahsildar and the Chennai Corporation, we direct the Chennai Corporation to remove the encroachment in question, in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. Needless to state that an opportunity of hearing shall be given to the alleged encroachers, before resorting to removal of encroachment.

5 With the above direction and observation, this writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

cad

To

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2 The Tahsildar
Perambur Taluk, Chennai 600 011

3 The Commissioner
Corporation of Chennai
Ripon Buildings, Chennai 600 003

4 The Assistant Executive Engineer
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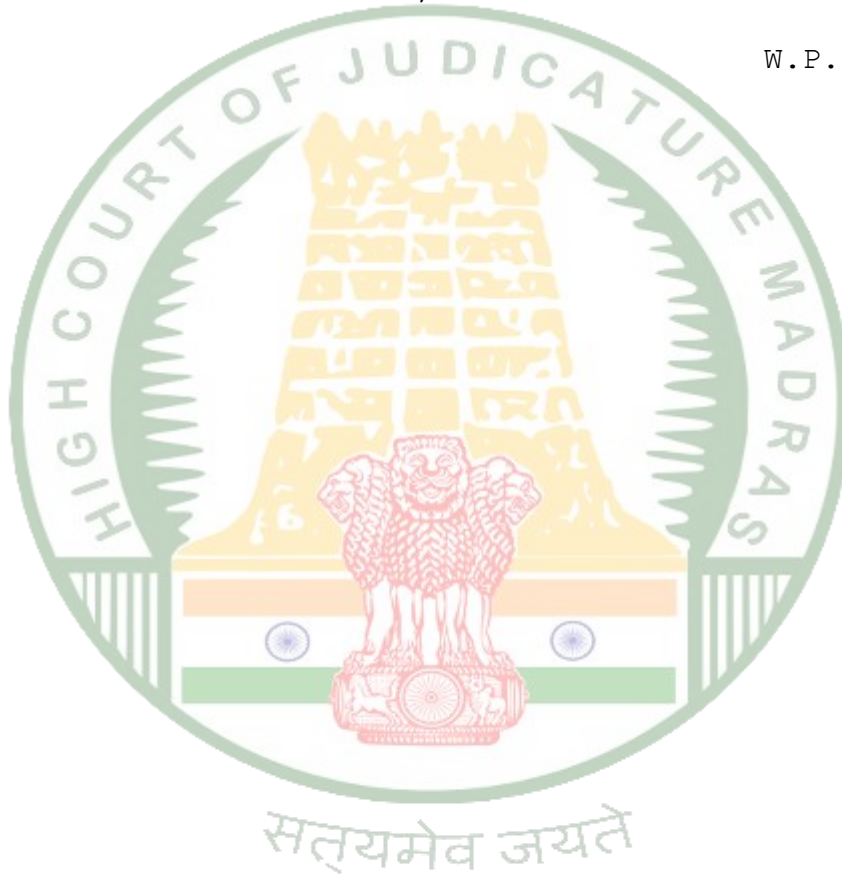
6 Tamil Nadu State Marketing Corporation
Thalamuthu Natarajan Maligai
Egmore, Chennai 600 008

7 The Commissioner of Police
Vepery, Chennai 600 003

1 cc to Mr.K. Mohanamurali, Advocate, sr. 12213
1 cc to Mr.G. Anantharangan, advocate, sr. 12134
1 cc to the Government Pleader, sr. 12352

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