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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. (MD) No.5236 of 2015

P.Narayanasamy

... Petitioner

-VS-

1.The Commissioner
Madurai Corporation
Annamaligai, Madurai

2.Uthandaraman

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus to direct the first respondent to consider the petitioner's representation, dated 29.01.2015, in accordance with law within the time stipulated by this Court and thereby remove the encroachment made by the second respondent in Sector IV, Madurai North Neighbourhood Scheme being part of Survey No.22, Thathaneri Village, Madurai North Taluk, Madurai.

For Petitioner : Mr.D.Sadiq Raja

For Respondents : Mr.T.S.Mohammed Mohideen
Addl. Govt. Pleader

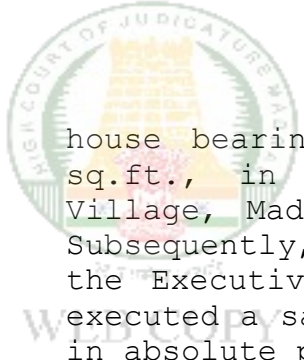
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O R D E R

Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader, takes notice for the first respondent. With the consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The prayer in the writ petition is for issuance of a writ of mandamus to direct the first respondent to consider the petitioner's representation, dated 29.01.2015, in accordance with law and to direct the first respondent to remove the encroachment made by the second respondent in Sector IV, Madurai North Neighbourhood Scheme being part of Survey No.22, Thathaneri Village, Madurai North Taluk, Madurai, within a time to be stipulated by this Court.

3. The petitioner was working as Chief Cashier in Ramaraju Surgical Cotton Mills at Rajapalayam and retired from service during 2004. While he was in service, by proceedings dated 13.05.1991, he was allotted a



house bearing No.L4/86, comprised in Survey No.22 Part, admeasuring 60 sq.ft., in Sector-IV, Madurai North Neighbourhood Scheme, Thathaneri Village, Madurai North Taluk, Madurai, by the Tamil Nadu Housing Board. Subsequently, on completion of payment of the entire sale consideration, the Executive Engineer, Madurai Housing Unit, Tamil Nadu Housing Board, executed a sale deed, dated 22.09.2005, in his favour and since then he is in absolute possession and enjoyment of the same.

4. According to the petitioner, as per the survey plan given by the Tamil Nadu Housing Board, on the northern and western side his plot is bounded by a pathway and semi open space, whereas part of the southern and eastern side is bounded by a pathway and semi open space and part of the southern boundary is also shown as a pathway and semi open space. But, on visiting the same, he found that the pathway situated on the southern and western side of his plot were encroached by the other plot owners. Aggrieved by the illegal encroachments made by the other plot owners, he made a complaint to the authorities of the Housing Board and since there was no action on his complaint, he approached this Court by filing a writ petition in W.P.No.8970 of 2006, seeking for a direction upon the authorities of the Housing Board to consider his representation, dated 14.10.2005 and to remove the encroachments. This Court, by order dated 03.01.2007, directed the then Executive Officer, (3rd Grade) Panchayat, Anaiyur, Madurai, to consider his representation and to dispose of the same on merits in accordance with law, within a period of eight weeks from the date of receipt of a copy of the order. However, the authorities removed the encroachment only after filing of contempt petition by the petitioner. Subsequently, the Anaiyur (Grade-III) Panchayat was merged with the first respondent Madurai Corporation.

5. The grievance of the petitioner is that though the encroachments were removed, again the second respondent encroached his plot on the northern and western side and restricted the free movement in the said pathways. Therefore, he gave a representation to the first respondent on 29.01.2015 seeking for removal of the encroachments made by the second respondent. Since the first respondent has not taken any steps on his representation, he has filed this writ petition seeking the relief as stated above.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the first respondent and perused the materials available on record.

7. Since the petitioner's representation, dated 29.01.2015, is still pending before the first respondent, there will be a direction to the first respondent to consider the petitioner's representation, dated 29.01.2015, and conduct an enquiry after issuing notice to the second respondent and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this Order. Further, the petitioner as well as the second respondent are directed to place all relevant materials before the first respondent during the course of enquiry.



8. With the above observation, this writ petition is disposed of. No costs.

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Sd/
Assistant Registrar

/True copy/

sub Assistant Registrar(c.s)

To:
The Commissioner,
Madurai Corporation,
Annamaligai, Madurai.

+1cc to M/S.Mr.D.Sadiq Raja, Advocate in SR.No. 17884

+1cc to M/S. Mr.T.S.Mohammed Mohideen, Advocate in SR.No. 17926

TS/20.04.2015/3P-4C

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