

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.12215 of 2016 and W.M.P.No.10555 of 2016

S. Muthuramalingam, M.A., B.L.
Advocate
Plot No.4, Door No.10
Sai Baba Colony Main Road
Virugambakkam
Chennai 600 092

.... Petitioner

Vs.

- 1 The Secretary to Government of Tamil Nadu,
Revenue Department,
Chennai 600 009.
- 2 The Secretary to Government of Tamil Nadu,
Water Resources Organisation,
Public Works Department, Chepauk,
Chennai 600 005.
- 3 The Secretary to Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Chennai 600 009.
- 4 The Principal Commissioner and,
Commissioner of Land Administration,
Chepauk, Chennai 600 005.
- 5 The Director of Survey and Settlement
Chepauk, Chennai 600 005
- 6 The District Collector of Chennai,
Singaravelan Maligai, Chennai 600 001.
- 7 The Commissioner,
Corporation of Chennai, Chennai 600 003.
- 8 The Chief Engineer,
Water Resources Organisation,
Public Works Department,
Chepauk, Chennai 600 005.

- 9 The Tahsildar,
Mambalam - Guindy Taluk,
K.K. Nagar, Chennai 600 083.
- 10 The Zonal Officer, Zone X,
Corporation of Chennai, Kodambakkam,
Chennai 600 024.
- 11 Kumaravel,
Junior Engineer,
Ward No.130, Zone X,
Corporation of Chennai,
Kodambakkam,
Chennai 600 024. Respondents
(in his personal capacity)

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records in Notice under Section 220 read with Section 222 of the Chennai City Municipal Corporation Act IV of 1919 issued by the 10th respondent dated 03.07.2015 and quash the same and direct respondents 7, 10 and 11 to pay the petitioner, a compensation of Rs.2 lakhs for the loss suffered and mental agony endured.

For petitioner Mr. Naveen Murthy
for Mr. K. Ramasamy

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

This writ petition is filed calling in question the justifiability of the notice dated 03 July 2015 issued by the tenth respondent under Section 220 read with Section 222 of the Chennai City Municipal Corporation Act IV of 1919 (for short "the Act") and for a direction to respondents 7, 10 and 11 to pay the petitioner, a compensation of Rs.2 lakhs for the loss suffered and mental agony endured by him.

2 The learned counsel for the petitioner submits that the statutory provisions provide for issuance of a show cause notice before taking action for removal of encroachment. Yet, in the case on hand, the authorities have passed the impugned notice dated 03 July 2015 under Section 220 read with Section 222 of the Act, together, directing the petitioner to remove the alleged encroachment, within a period of seven days, when such a manner is deprecated by Division Benches of this Court in Dr. K. Rajeshkumar vs. The Commissioner, Corporation of Chennai and 2

Others¹ and Arputham Vs. Zonal Officer, Zone-XI, Corporation of Chennai, Ripon Buildings, Chennai - 3 and Others². It is further submitted that pursuant to the impugned notice, the compound wall on the southern side of the petitioner's house has been demolished. Thus, a direction to restore the building to its original position and payment of compensation be issued to the authorities.

3 The question as to whether the petitioner was given show cause notice or not before the impugned notice came to be issued, is required to be examined properly and also, the issue as to whether the damage, as alleged by the petitioner, has been done de hors the statutory provision, has to be determined and ascertained, which can be properly adjudicated only by the Civil Court, viz., the II Assistant City Civil Court, Chennai, wherein, the issue in respect of the property in question, is pending consideration, if a request is made by the petitioner.

Accordingly, we dismiss the writ petition, reserving liberty to the petitioner to take recourse to the concerned Civil Court, if so advised. Costs made easy. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1 The Secretary to Government of Tamil Nadu,
Revenue Department,
Chennai 600 009.
- 2 The Secretary to Government of Tamil Nadu,
Water Resources Organisation,
Public Works Department, Chepauk, Chennai 600 005.
- 3 The Secretary to Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Chennai 600 009.
- 4 The Principal Commissioner and ,
Commissioner of Land Administration,
Chepauk, Chennai 600 005.

1 order dated 02.03.2015 in W.P.No.5369 of 2015

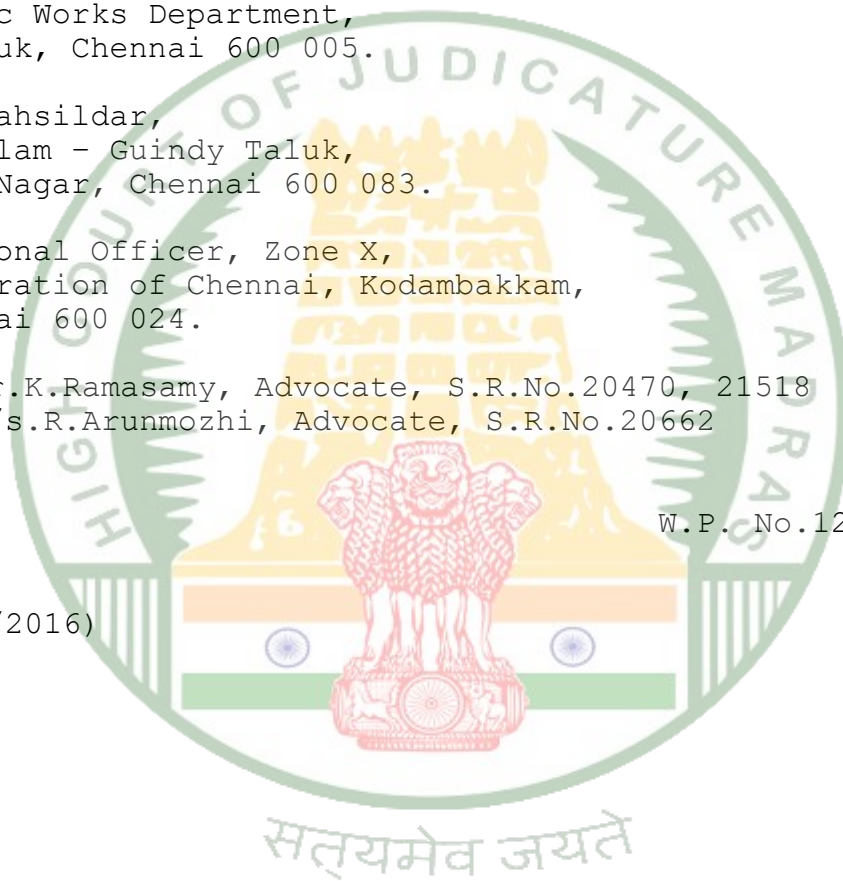
2 order dated 07.11.2013 in W.P. No.29485 of 2013

- 5 The Director of Survey and Settlement,
Chepauk, Chennai 600 005.
- 6 The District Collector of Chennai,
Singaravelan Maligai, Chennai 600 001.
- 7 The Commissioner,
Corporation of Chennai, Chennai 600 003.
- 8 The Chief Engineer,
Water Resources Organisation,
Public Works Department,
Chepauk, Chennai 600 005.
- 9 The Tahsildar,
Mambalam - Guindy Taluk,
K.K. Nagar, Chennai 600 083.
- 10 The Zonal Officer, Zone X,
Corporation of Chennai, Kodambakkam,
Chennai 600 024.

+4cc to Mr.K.Ramasamy, Advocate, S.R.No.20470, 21518
+1cc to M/s.R.Arunmozhi, Advocate, S.R.No.20662

W.P. No.12215 of 2016

ak(CO)
srg(20/04/2016)



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