

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2016

CORAM:

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

W.P. No.1228 of 2016
and
W.M.P. No.965 of 2016

Muthulakshmi

... Petitioner

Vs.

1. The Commissioner
Corporation of Chennai
Ripon Building
Chennai 600 003
2. The Zonal Officer - Zone VIII
Corporation of Chennai
Shenoy Nagar, Chennai 600 030
3. Prakash Chand
4. Anjana
5. Mahendra Kumar
6. Aswin Kumar

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the first and second respondents to cancel the planning permission granted in File No.COC/9789/12 & COC/4070/2013 with respect to Survey No.70/5, T.S. No.57,58,59, 60, 61 and 64 Block No.27, Vellala Street, Egmore-Nungambakkam Taluk, Aminjikarai, Chennai 600 029.

For petitioner : Mr.G. Surya Narayanan

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

This writ petition is filed seeking a writ of mandamus directing the respondents 1 and 2 to cancel the planning permission granted to the private respondents in File Nos.COC/9789/12 & COC/4010/2013 with respect to Survey No.70/5, T.S. No.57,58,59, 60, 61 and 64 Block No.27, Vellala Street, Egmore Nungambakkam Taluk, Aminjikarai, Chennai 600 029.

2. On a perusal of the pleadings, it is noticed that the petitioner, joining hands with two persons, viz., Umashankar and Sujatha, has instituted a suit being O.S. No.7699 of 2012 on the file of the City Civil Court, Chennai, seeking the following relief:

"A Permanent injunction restraining the defendants, their men, servants, agents and others claiming through them from making any obstruction or construction in the 6 feet common passage running South to North, from Vellala Street to the plaintiffs' property in extent of breadth of 6 feet and length of 139 feet totally 6 ft x 139 ft.= 834 sq. ft. coloured red in the plan 2 annexed with the plaint and morefully described in Schedule B thereunder.

B Permanent injunction restraining the defendants, their men, servants, agents and others claiming through them from making any obstruction or unauthorised construction in vacant land in Survey No.70/5, T.S. No.61, Block No.27, Vellala Street, Aminjikarai, Chennai, admeasuring 1175 sq. ft., morefully described Plan 2 in schedule F as item 1 hereunder:

C Permanent injunction restraining the first defendant, his men, servants, agents and others claiming through them from making any obstruction or unauthorised construction in vacant land in Plan 2 Schedule C morefully described hereunder:

D Permanent injunction restraining the 4th defendant, his men, servants, agents and others claiming through them from making any obstruction or

unauthorised construction in vacant land in Plan 2 Schedule D morefully described hereunder:

E Permanent injunction restraining the 3rd defendant, his men, servants, agents and others claiming through them from making any obstruction or unauthorised construction in vacant land in Plan 2 Schedule E morefully described hereunder:

F. Permanent injunction restraining the 2nd defendant, his men, servants, agents and others claiming through them from making any obstruction or unauthorised construction in vacant land in Plan 2 schedule F morefully described hereunder:

G. Mandatory injunction directing defendants 5 to 7 herein to restrain the defendants herein from putting up any unauthorised constructions in B to F schedule mentioned property in plaint Plan 2."

3. On a careful analysis of the materials placed before us, it appears that qua certain survey numbers, the petitioner, along with the aforestated two persons, has moved the Civil Court, seeking permanent injunction against the alleged unauthorised construction.

4. According to the learned counsel for the petitioner, the aforesaid suit is only qua a portion of the land and for remaining portion of the land, the petitioner has approached this Court under writ jurisdiction.

5. The aforestated ground urged by the petitioner does not have legs to stand, for, she cannot divide the land for the purpose of seeking remedy before different forums. That apart, even otherwise, the petitioner has sought cancellation of planning permission granted to the private respondents invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, which cannot be granted. If the petitioner is of the view that the private respondents had obtained planning permission on extraneous consideration, she can take recourse to the appropriate forum. The petitioner is further at liberty either to widen the relief in the pending suit or seek any other appropriate remedy, as advised under the provisions of law.

Resultantly, the writ petition stands dismissed. Costs made easy. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cad

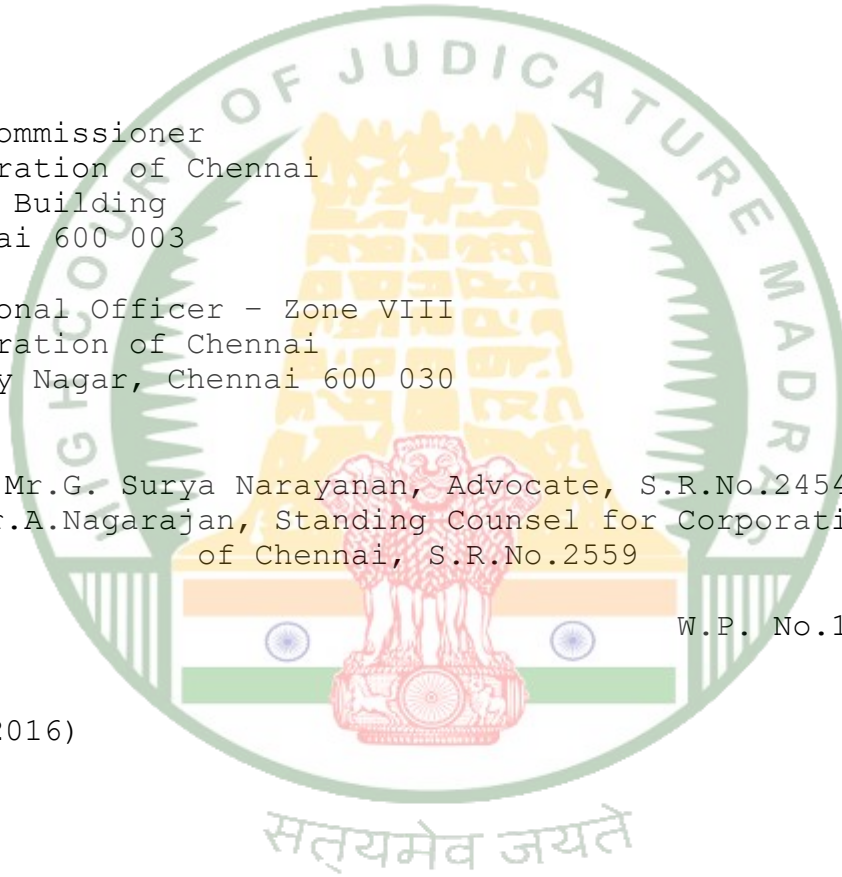
To

1. The Commissioner
Corporation of Chennai
Ripon Building
Chennai 600 003
2. The Zonal Officer - Zone VIII
Corporation of Chennai
Shenoy Nagar, Chennai 600 030

+2cc's to Mr.G. Surya Narayanan, Advocate, S.R.No.2454
+1cc to Mr.A.Nagarajan, Standing Counsel for Corporation
of Chennai, S.R.No.2559

W.P. No.1228 of 2016

KGK(CO)
CA(28/01/2016)



WEB COPY