

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

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

W.P. No.12738 of 2016 and W.M.P. No.11143 of 2016

L. Savithri

Petitioner

Vs.

1 The District Collector  
Kancheepuram, Kancheepuram District

2 The Commissioner  
Kancheepuram Municipality  
Kancheepuram

Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents to restore the land and house of the petitioner at No.10A, Jeevanantham Street, Chinna Kancheepuram, Kancheepuram District in Survey No.428 to an extent of 800 sq. ft.

For petitioner Mr. T. Saravanan

For R1 Mr. P.S. Sivashanmugasundaram  
Special Government Pleader

For R2 Mr. G.B. Rajesh

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader and Mr. G.B. Rajesh, learned counsel, accept notice for respondents 1 and 2 respectively.

2 This writ petition is filed seeking a writ of mandamus directing the respondents to restore the petitioner's land and house at No.10A, Jeevanantham Street, Chinna Kancheepuram, Kancheepuram District in Survey No.428 to an extent of 800 sq. ft.

3 According to the petitioner, she has been in possession and enjoyment of the thatched house put up in the Government poramboke land since 1967 and she has also been paying property tax and electricity service connection also has been given to her house. While so, she has been issued with a notice dated 25 November 2014 under Sections 182 and 313 of the Tamil Nadu District Municipalities Amended Act, 1920, in and by which, she was directed to remove the encroachment made by her. Subsequently, her house was even demolished by the second respondent, unmindful of the fact that she has been in occupation of the property in question for over four decades. In fact, she has filed a suit in O.S. No.86 of 2015 on the file of the District Munsif Court, Kancheepuram, seeking injunction from demolition of the property in question, but, pending the said suit, the second respondent had demolished her house on 04 June 2015, without following the procedure contemplated under the provisions of Sections 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905. Feeling aggrieved, she has filed the instant writ petition seeking the aforestated relief.

4 Be that as it may, the petitioner was given an opportunity of hearing right from November 2014 by giving show cause notice. After having satisfied that the property was under encroachment, action was taken to remove the same. The show cause notice remains unresponded and the petitioner has also not produced any order of interim injunction in the pending suit. In such view of the matter, the decision taken by the authorities for removal of the encroachment cannot be faulted with. After removal of the property, the petitioner comes up with this writ petition with the plea that the second respondent is not competent to demolish her property. We are not inclined to accept the said plea, at this stage. If, according to the petitioner, the second respondent is not the competent authority to demolish her house, she ought to have raised this issue at the relevant point of time, which was not done.

5 The petitioner has also filed a miscellaneous petition, being W.M.P.No.11143 of 2016 along with the instant petition, seeking for a direction to the second respondent / Commissioner, Kancheepuram Municipality to pay compensation of Rs.10 lakhs. In respect of the claim for damages / compensation, the petitioner can take recourse to competent jurisdictional court.

In view of the foregoing, this writ petition being devoid of any merit, stands dismissed. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

cad

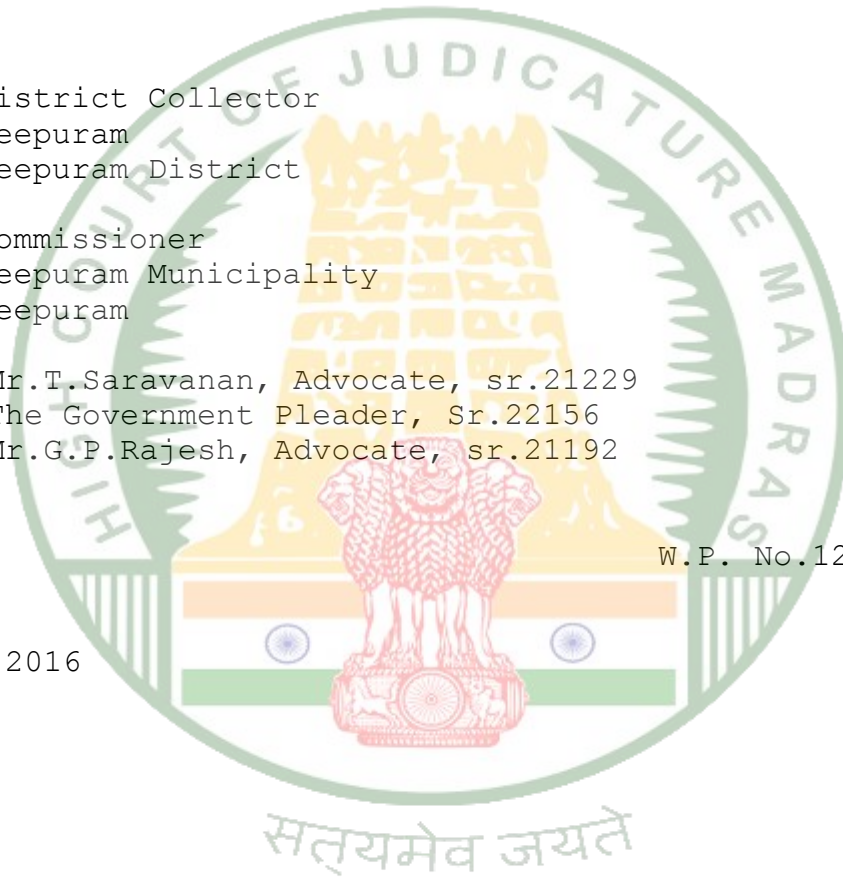
To

- 1 The District Collector  
Kancheepuram  
Kancheepuram District
- 2 The Commissioner  
Kancheepuram Municipality  
Kancheepuram

+1 cc to Mr.T.Saravanan, Advocate, sr.21229  
+1 cc to The Government Pleader, Sr.22156  
+1 cc to Mr.G.P.Rajesh, Advocate, sr.21192

W.P. No.12738 of 2016

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kra 27.04.2016



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