

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2016

CORAM:

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

W.P. No.12781 of 2016

D. Sumathi

Petitioner

vs.

- 1 The District Collector
Tiruvallur
- 2 The Tahsildar
Madhavaram
Tiruvallur District
- 3 The Managing director
The Metro Water Department
No.1, Pumping Station Road
Anna Salai
Chinthadripet
Chennai 600 002
- 4 The Managing Director
Metro Water Department
Puzhal, Chennai 600 066
- 5 The Chennai Corporation Zone 7
No.536, Ambattur
Chennai 600 053
- 6 Dinakaran

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the fifth respondent to demolish the illegal construction made by the 6th respondent at metro water land as well as in the petitioner's plot no.395 in Survey No.190/B14A4(190/B416) situated at Surapet Village, Ambattur Taluk, Tiruvallur District based on communication dated 30.12.2015.

For petitioner	Mr. R. Venkatesulu
For RR 1 to 4	Mr. P.S. Sivashanmugasundaram Special Government Pleader
For R5	Mr. V.C. Selvasekaran Standing Counsel

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader and Mr. V.C. Selvasekaran, learned Standing Counsel, accept notice for respondents 1 to 4 and the fifth respondent respectively.

2 This writ petition is filed seeking a writ of mandamus directing the fifth respondent to demolish the illegal construction made by the 6th respondent in the land belonging to the Metro Water Department as well as in the petitioner's plot no.395 in SurveyNo.190/B14A4(190/B416) situated at Surapet Village, Ambattur Taluk, Tiruvallur District, based on communication dated 30 December 2015.

3 At the threshold, it is apropos to point out that the petitioner has earlier come up with the writ petition being W.P. No.32773 of 2015 seeking an identical relief, as sought in this writ petition and in fact, even the arraignment of parties is no different therein.

4 A Division Bench of this Court, wherein, one of us (Satish K. Agnihotri, J.) was a Member, finding that the petitioner had not addressed a representation to the fifth respondent and as such, the said authority cannot be directed without there being any representation addressed to him, dismissed the writ petition, reserving liberty to the petitioner to make an appropriate representation to the authority concerned. It was also held that on such representation being made, the authority concerned is under an obligation to consider the same on its own merits and in accordance with law and take consequential decision, after affording an opportunity of hearing to the alleged encroacher.

5 The phrase "authority concerned" employed therein means the officer who is competent to take cognizance of the petitioner's allegations and also take consequential action.

6 It appears that the petitioner has addressed the representation dated 30 December 2015, not to a particular authority, but, to the Chennai Corporation, Zone-7. In that

event, as directed earlier, the Chennai Corporation is required to consider the same. Otherwise, the petitioner is at liberty to address a fresh representation to the specific authority concerned for proper and effective consideration. In the event, the petitioner makes a fresh representation to the authority concerned, the authority concerned is obliged to consider and pass orders on the same, on its own merits and in accordance with law.

The writ petition stands disposed of with the above observations. Costs made easy.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

cad

To

- 1 The District Collector
Tiruvallur
- 2 The Tahsildar
Madhavaram
Tiruvallur District17
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1 cc to Mr.Usha Ramman, Advocate, Sr. 22361

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CA (CO)
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