

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.07.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.11823 of 2014

and

M.P.No.1 of 2014

Chennai Egmore Residents & Owners
Welfare Assodication, Rep. by its
Secretary, T.D.Ramalingam. ... Petitioner

-vs-

1.The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai 600 003.

2.The Member Secretary,
Chennai Metropolitan Development
Authority, No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.

3.The Commissioner of Police,
Greater Chennai, E.V.K.Sampath Salai,
Vepery, Chennai 600 007.

4.The Asst. Commissioner cum Zonal
Officer, Royapuram Zone V,
Corporation of Chennai, 62, Basin Bridge
Road, Old Washermanpet,
Chennai 600 021.

5.Sri Ayyappa Prarthana Mandir Samithi
Trust, Rep. by its Trustee,
Vivekanandan. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct respondents 1 to 4 to remove the illegal, unauthorised and high handed construction of temple in premises bearing New No.19 (Old No.10), Poosala Gengu Street, Egmore, Chennai 600 008, comprised in O.S.No.1045, 1052 and R.S.No.690/2 (in Corporation Division

No.61, Royapuram Zone V) made by the 5th respondent in the subject area.

For Petitioner : Mr.Deenadayalan for
Mr.P.Amarnath

For Respondents : Mr.V.C.Selvasekaran for RR 1 & 4
: Mr.K.Raja Srinivas for R-2
: Mr.T.N.Rajagopalan, Spl.G.P.for/R-3
: Mr.V.Raghavachari for R-5

* * * * *

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner is aggrieved by the construction of a temple by the fifth respondent Trust in the midst of residential area. It is quite apparent from para 6 of the petition itself that the petitioner being the residents-association claims that the easementary rights are affected, as there is less area of access to the street.

2.The stand placed before us by the learned counsel for respondent no.5 is that this temple is in existence for the last 21 years and now some renovation / construction work is going on. On the other hand, learned counsel for the petitioner submits that the fifth respondent was not even in the picture at that stage and there was residential accommodation which was purchased much later by the fifth respondent in the year 2007. It is submitted that only thereafter, the residential building was demolished and the property was sought to be re-constructed as a temple.

3.We are of the view that keeping in mind the nature of controversy and the allegations inter se the parties, it is not possible to determine them in a writ proceeding under Article 226 of the Constitution of India and that too in a public interest litigation. This is really in the nature of private dispute and it is only on evidence being led, would there be a clarity to the issue. Thus, it is in only civil proceedings that the rights and obligations of the parties can be determined.

4.Learned counsel for the petitioner states that there was an order of status quo to be maintained as on 25.04.2014 and since this petition is being disposed of, the consequence would be that the interim order would stand vacated. In our view, that would be the natural consequence, but it is trite to say that any construction to be made has to be made as per sanction. To that extent, the responsibility of the Corporation / Municipal authorities would be to see that construction should

only be permitted as per any sanction plan. At this stage, learned counsel for respondent no.5 assures the Court that no demolition or construction would be done without sanction by the competent authority

5.We, thus, close the petition with the aforesaid liberty to the petitioner. No costs. Consequently, M.P.No.1 of 2014 stands closed.

sra

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai 600 003.
- 2.The Member Secretary,
Chennai Metropolitan Development
Authority, No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.
- 3.The Commissioner of Police,
Greater Chennai, E.V.K.Sampath Salai,
Vepery, Chennai 600 007.
- 4.The Asst. Commissioner cum Zonal
Officer, Royapuram Zone V,
Corporation of Chennai, 62, Basin Bridge
Road, Old Washermanpet,
Chennai 600 021.

- + 1 cc to Mr.K.Raja Srinivas, Advocate Sr 42802
- + 1 cc to The Govt.Pleader, Sr 42891
- + 3 ccs to Mr.P.Amarnath, Advocate Sr 42742
- + 2 ccs to Mr.V.Raghavachari, Advocate Sr 43217

KR/10/8/16

W.P.No.11823 of 2014

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