

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 06-01-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION No.22862 OF 2015

Seyathammal

...Petitioner

-vs-

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

2.The Asst.Executive Engineer,
Zone-6,
Corporation of Chennai,
Ayanavaram,
Chennai-600 023.

...Respondents

Writ Petition under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, forbearing the respondents, their men, agent or officers or any other person acting through them, from interfering with the peaceful possession and enjoyment of the property of the petitioner situated at Plot No.97, comprised in T.S.No.2/2 and 2/3, Kolathur Village, Purasawalkam-Perambur Taluk, Chennai District, unless otherwise by due process of law.

For petitioner : Mr.N.Anand Venkatesh

For respondents : Mr.P.V.Selvakumar

O R D E R

Petitioner seeks for issuance of a writ of mandamus, forbearing the respondents, their men, agents or officers or any other person acting through them, from interfering with the peaceful possession and enjoyment of the property bearing Plot No.97, comprised in T.S.No.2/2 and 2/3, Kolathur Village, Purasawalkam-Perambur Taluk, Chennai District, unless otherwise by due process of law.

2. Petitioner had promoted a housing lay-out, consisting of 102 plots; of which, except plot No.97, all other plots have been sold out; and, with regard to plot No.97, an attempt was made by the respondent-Corporation, to enter upon the same, stating it to be a Corporation land,

shown as a road. Therefore, the petitioner filed a suit, namely, O.S.No.2156 of 2014, on the file of VII Assistant Judge, City Civil Court, Chennai, for permanent injunction, wherein the respondent-Corporation had been arraigned as the sole defendant. However, the Corporation had not chosen to appear before the trial Court, and was set ex parte. The Court below, after considering the evidence placed before it, decreed the suit, as prayed for, vide a judgment and decree, dated 05.11.2014, and, by virtue of the said decree, the respondent-Corporation has been restrained from interfering with the property in question. The Corporation, without taking steps for setting aside the said decree, cannot resort to interfering with the peaceful possession and enjoyment of the said property.

3. In the counter affidavit filed by the second respondent-Assistant Executive Engineer, averments have been made, stating, that the Will executed by Varadhappa Naidu in favour of the petitioner Seyathammal (wife of Krishnan), dated 21.01.1968, was invalid and sale deed also invalid.

4. In my view, the above stand, taken by the respondent-Corporation, cannot be given credence, as a decree of permanent injunction is operating against the Corporation. Therefore, unless the said decree is set aside by the Court concerned, the respondent-Corporation is stymied from interfering with the peaceful possession and enjoyment of the property in question, namely, Plot No.97.

5. Writ Petition is allowed. No costs. Consequently, the connected M.P.No.1 of 2015 is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

dixit

To

- 1.The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai-600 003.
- 2.The Asst.Executive Engineer,
Zone-6, Corporation of Chennai,
Ayanavaram, Chennai-600 023.

+ 1 cc to Mr.N. Anand Venkatesan, Advocate SR.810

+ 1 cc to Mr.P.V. Selvakumar, Advocate Sr.785

W.P.No.22862 OF 2015

KJI(CO)

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