

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2016

CORAM

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

W.P. Nos.36302 and 33858 of 2015  
and  
M.P.Nos.1 and 1 to 3 of 2015

A.Sarangan .. Petitioner in  
W.P.No.36302/2015

Asha Bee ... Petitioner in  
W.P.No.33858/2015  
Vs.

1.The Corporation of Chennai  
rep. by Commissioner,  
Ripon Building, Park Town,  
Chennai - 3.

2.The Executive Engineer,  
Corporation of Chennai,  
Zone VI, Town Planning Section,  
Regional Office (Central),  
Shenoy Nagar, Chennai - 30.

3.The Asst. Executive Engineer,  
Corporation of Chennai,  
Unit 17, Ayanavaram,  
Chennai - 23.

4.The Asst. Engineer,  
Division No.74, Corporation of Chennai,  
Secretariat Colony,  
Kilpauk, Chennai - 10.

.. Respondents in  
W.P.No.36302/2015

1.The Executive Engineer  
(Town Planning)  
Corporation of Chennai,  
Regional Office (Central),  
Shenoy Nagar, Chennai - 30.

2.The Executive Engineer,  
Chennai Metro Water Supply and  
Sewage Board, Ward No.74, Zone VI,  
Ayanavaram, Chennai - 23.

3.A.Sarangan .. Respondents in  
W.P.No.33858/2015

W.P.No.36302 of 2015: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents herein, their men, agents, servants, subordinates, officer(s) or any other person or persons authorised by them from, in any manner, interfering with the rights of the petitioner to put up construction in the property at Door No.2/1 (Old No.5/1) Reddy Colony Street, Ramalingapuram, Chennai - 12 in accordance with the approved building plan bearing No.PPA/WDC/04/02948/2011 and building permit bearing No.BA/CD04/3251/2011 dated 24.06.2011.

W.P.No.33858 of 2015: Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified Mandamus to call for the records of the first respondent made in his proceedings Order No.RDC/C/TP/PPA/Old Zone 4/New Zone 6/2498/2011 dated 12.09.2014 approving the planning permission and sanctioning the plan for construction in property being 20 feet road at Chengalvarayan Maistry Street (adjacent to Plot 5), measuring an extent of 1400 sq. ft. comprised in Old Paimash No.1006 and 1007, New Paimash No.1005/1 and 1007/1, bearing T.S.No.37/C, Block No.38 of Ayanavaram Village, Ramalingapuram Reddy Ubra Palayam, Ayanavarm, Madras - 12 and quash the same and consequently direct the second respondent to restore the drainage and water supply connections to the petitioner property referred to above at the cost of the petitioner.

For Petitioner .. Mr.AR.L.Sundaresan,  
Sr. Counsel  
for Ms.AL.Ganthimathi  
in W.P.No.36302 of 2015  
Mr.Silambannan, Sr. Counsel  
for M/s.Profexs Associates  
in W.P.No.33858 of 2015

For Respondents .. Mr.R.Arunmozhi  
in W.P.No.36302 of 2015  
for R1 in W.P.No.33858 of 2015  
Mr.G.Janakiraman for R2  
in W.P.No.33858 of 2015  
Mr.AR.L.Sundaresan, Sr. Counsel  
for M/s.AL.Ganthimathi  
for R3 in W.P.No.33858 of 2015

## COMMON ORDER

(Order of the Court was made by SATISH K.AGNIHOTRI, J.)

With the consent of the learned counsel appearing for the parties, the writ petitions are taken up for final disposal.

2.The petitioner in W.P.No.36302 of 2015 has filed the writ petition seeking for the issuance of a mandamus forbearing the respondents from interfering with the rights of the petitioner to put up construction in the property at Door No.2/1 (Old No.5/1) Reddy Colony Street, Ramalingapuram, Chennai - 12 in accordance with the approved building plan.

3.Assailing the order of the first respondent dated 12 September 2014 and for a consequential direction to the second respondent to restore the drainage and water supply connection to the property in question, the petitioner has come up with the writ petition being W.P.No.33858 of 2015.

4.The brief facts of the case are that the petitioner in W.P.No.36302 of 2015 purchased the property in question from Nammalvar Co-operative House Site Society and he sought permission of the Corporation of Chennai to demolish the existing old structure and put up a new structure and remitted the amount for the same. But he was not issued with planning permission as objections were raised by some persons including the petitioner in W.P.No.33858 of 2015. After several rounds of litigation, the petitioner started the construction work. While so, he was issued with a notice calling upon him to produce the copy of the approved building plan. Pursuant to the reply sent by the petitioner, stop work notice dated 24 July 2015 was issued by the Corporation. Per contra, it is the case of the petitioner in W.P.No.33858 of 2015 that the third respondent viz., the petitioner in W.P.No.36302 of 2015, by suppressing the facts, put up the construction in the property in question, which includes 20 feet road used by them as pathway to the main road.

5.Heard both sides and perused the materials available on record.

6.Indisputably, the land in question, is the subject matter of dispute in the pending suits before the trial court. A suit, being O.S.No.6418 of 2007 has been filed by the members of Nammalvar Cooperative Housing Society, seeking for removal of encroachment in the suit site. The writ petitioner in W.P.No.36302 of 2015, i.e., Sarangan, has filed an interim application in the said suit, which was rejected. Thereafter, the

said Sarangan has filed civil revision petitions before this court, which were dismissed. The petitioner in W.P.No.33858 of 2015, i.e., Asha Bee, has stated that her mother had purchased the property with access of 20 feet road and she applied for water and sewer service connections. But the said Sarangan has filed a suit, being O.S.No.2538 of 2006, stating that he is the absolute owner of that passage, but that suit was dismissed. Thereafter, water and sewer connections were granted to Asha Bee. Against the dismissal of the said suit, an appeal, being A.S.No.155 of 2008 has been preferred by Sarangan. Subsequently, the water and sewer service connections to the premises No.31A, Chengalvarayan Maistry Street, Nammalwarpet, Chennai were disconnected in view of the judgment passed by this Court in S.A.Nos.1765 and 1279 of 1998, dated 12<sup>th</sup> March, 2009. Thereafter, the said Asha Bee filed a suit, being O.S.No.2220 of 2014, seeking for declaration that the property is a public road and the said suit is pending. The intended water and sewer lines pass through the property, which is under dispute and also the subject matter of pending dispute before the trial court.

7.In view of the above factual matrix, this court is of the considered view that ends of justice would be sub-served if the parties are granted liberty to approach the trial court for appropriate relief. Accordingly, the parties are granted liberty to make an application in the pending suits filed before the Trial Court for appropriate relief and also for expeditious disposal of the pending cases. If an application is made, the Trial Judge is directed to take up the same expeditiously and take a decision on its own merits and in accordance with law.

8.With the aforestated observation and direction, the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते

Sd/-  
Asst.Registrar (CS VII )

/true copy/

Sub Asst. Registrar

mml/vvk

To

1.The Commissioner,  
Corporation of Chennai,  
Ripon Building, Park Town,  
Chennai - 3.

2.The Executive Engineer,  
Corporation of Chennai,  
Zone VI, Town Planning Section,  
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Chennai Metro Water Supply and  
Sewage Board,  
Ward No.74, Zone VI,  
Ayanavaram, Chennai - 23.

2 ccs to M/s.A.L. Gandhimathi, Advocate, Sr. 18278, 18279

1 cc to M/s.R. Arunmozhi, Advocate, Sr. 18146

W.P.Nos.36302 and 33858  
of 2015

SNS (CO)  
kk 6/4

सत्यमेव जयते

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