

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.26531 of 2016 and
WMP.No.22720 of 2016

Mr.T.Thomson Joseph ...Petitioner

Vs.

1. The Commissioner,
Pallavaram Municipality,
Chrompet, Chennai-600 044.

2. M.Mani ...Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus, directing the 1st respondent to take action on the illegal construction put by the 2nd respondent in the property situated at Door No.2, 3rd Street, Then mozhi Nagar, Kilkattalaki, Chennai- 600117 by disposing the petitioner's representation dated 01.07.2016 in accordance with law.

For Petitioner : Mr.T.Ramachandran

For respondents : Mr.V.P.Rajendran for R2

ORDER

(Order of the Court was made by HULUVADI G. RAMESH, J.)

Heard Mr.T.Ramachandran, learned counsel for the petitioner and Mr.V.P.Rajendran, learned counsel appearing for the 2nd respondent.

2. At the threshold, the allegation of the petitioner is that the 2nd respondent has started construction in his property without leaving sufficient space in all the four sides of his property and also tried to encroach the petitioner's property by

1 ½ feet by breadth and length. In this regard, the petitioner submitted a representation to the 1st respondent on 01.07.2016 requesting to take action against the 2nd respondent.

3. It is also seen that the petitioner has filed a civil suit as against the 2nd respondent in O.S.No.437 of 2010 on the file of District Munsif Court, Alandur.

4. Since the matter as regards encroachment of the patta land belonging to the petitioner by the 2nd respondent is concerned, we are of the considered view that it is a matter involving fact finding and hence, the same has to be decided by the civil court, which requires adjudication after hearing both parties. However, the maintainability of the Writ Petition on the one hand and issuing direction to the 1st respondent to take action on the illegal construction put up by the 2nd respondent on the other hand are concerned, it could be done only on the proof of such encroachment based on the findings arrived at by the civil court. It is for the petitioner to implead the concerned official authorities before the civil court and seek such relief. In any event, the matter does not merit consideration or to pass any orders at this stage. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

The Commissioner,
Pallavaram Municipality,
Chrompet, Chennai-600 044.

+lcc to Mr.T.Ramachandren, Advocate Sr.51810
+lcc to Mr.V.P.Rajendren, Advocate sr.51393

W.P.No.26531 of 2016

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srg 18/10/2016