

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.27098 of 2016
and WMP.No.23273 of 2016

M.Phathima

...Petitioner

Vs.

1. The Assistant Commissioner,
Corporation of Chennai
Regional Office - Central
2nd Cross Street (East),
Pulla Avenue,
Shenoy Nagar,
Chennai- 600 030.
2. The Executive Engineer,
Zone- 10
Corporation of Chennai,
Chennai- 600 030.
3. The Assistant Executive Engineer,
Union - 29
Corporation of Chennai,
Chennai- 600 030.
4. The Junior Engineer,
Division - 128,
Corporation of Chennai,
Chennai - 600 030.

- 5.The Regional Deputy Commissioner
Regional Office (Central)
Greater Chennai Corporation
No.36B, Pulla Avenue, Shenoy Nagar
Chennai-600 030

...Respondents

(5th respondent impleaded suo motu
by HGRJ & MVMJ by the self same
order dated 03.08.2016)

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the concerned records relating to the notice under Section 220 r/w Section 222 of the CCMC Act, IV of 1919 dated 23.07.2016 passed by the respondents and quash the same.

For Petitioner : Mr.L.Chandrakumar
for Mr.G.Gubendiran

For Respondents : Mr.V.C.Selvasekaran

O R D E R

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

Heard Mr.L.Chandrakumar, learned counsel for the petitioner and Mr.V.C.Selvasekaran, learned Standing counsel, who accepts notice on behalf of respondents.

2. Since the learned Standing counsel appearing for the respondents submits that the Regional Deputy Commissioner, Regional Office (Central), Greater Chennai Corporation, is the necessary party to the present proceedings, we hereby suo motu implead the said respondent as 5th respondent for the purpose of passing necessary orders in this writ petition.

3. Challenging the notice dated 23.07.2016 issued by the respondents, the present writ petition came to be filed by the petitioner.

4. On a perusal of the show cause notice dated 23.07.2016 issued by the respondents, it is seen that the petitioner is said to have encroached the road mentioned in the notice which originally belongs to the Corporation of Chennai and the same is entitled to be removed under Sections 220 and 222 of the Chennai City Municipal Corporation Act of 1919 (herein after called as "Act") and further requested the petitioner herein to remove the said encroachment within 7 days from the service of notice.

5. According to the learned counsel for the petitioner, the property mentioned in the notice has been purchased by the petitioner's husband and the petitioner is living in the said land for more than 48 years. Learned counsel for the petitioner further submits that the petitioner had given a reply/representation on 01.08.2016 to the respondents 1 to 4 herein praying to stop further proceedings pursuant to Section 220 read with 222 of the Act.

6. We have anxiously considered the submissions made by the learned counsel for the petitioner and the documents placed before this court. The petitioner appears to have filed reply dated 01.08.2016 as against the Notice dated 23.07.2016 to the respondents 1 to 4. Since the 5th respondent herein is the competent authority to pass orders on the reply to the notice, the petitioner is directed to send a copy of the reply dated 01.08.2016 to the 5th respondent forthwith and on receipt of such reply, the 5th respondent is directed to consider the same, hold enquiry and after affording sufficient opportunity to the petitioner to substantiate her claim and verification of such documents, pass necessary orders in accordance with law, within two months from the date of receipt of a copy of this order. It is made clear that all the contentions are left open to the petitioner to be agitated before the 5th respondent. Till such orders are passed, status quo shall be maintained by the parties.

7. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected WMP is closed.
nvsri

-s/d-

Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

To

1. The Assistant Commissioner,
Corporation of Chennai, Regional Office - Central
2nd Cross Street (East), Pulla Avenue,
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5. The Regional Deputy Commissioner
Regional Office (Central) Greater Chennai Corporation
No.36B, Pulla Avenue, Shenoy Nagar Chennai-600 030

+ 1 cc to Mr.G.Gubendthiran, Advocate SR 44652

mg(co)
prk8/8

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