

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 4.8.2016

CORAM

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

W.P.No.27242 of 2016

J.Suresh Kumar
rep. by his Power Agent R.C.Mini

Petitioner

Versus

1 The Commissioner
Corporation of Chennai
Rippon Buildings Chennai 600 003.

2 The Joint Commissioner (South)
Corporation of Chennai
Adyar Chennai-20

3 The Joint Commissioner
Hindu Religious and Charitable
Endowment Board
Nungambakkam Chennai 600 034.

4 The Executive Officer
Arulmighu Dhandeeswarar Thirukoil
Velacherry Chennai 600 042.

5 K.Vinod Kumar

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the 2nd respondent to remove the encroachment made by the 5th respondent in Door No.7/15 Survey No.129 Karunambigai Colony Velachery Chennai-42 as per the directions of this Honourable Court dated 9.10.2015 in W.P. No.32204 of 2015.

For petitioner : Ms.P.T.Asha for

M/s.Sarvabhauman Associates

For RR1 and 2 : Mr.R.Arunmozhi

For RR3 and 4 : Mr.M.Maharaja, Special Govt. Pleader

ORDER

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

Heard the learned counsel appearing for the parties.

2. The case of the petitioner is that his uncle has been allotted and in possession of the land in question by the temple authorities from the year 1973 and now, his allegation is that unauthorised and illegal construction has been put up by one Karunakaran, to whom, the land in question had been entrusted by his uncle wayback in the year 2000 and the fifth respondent herein, claiming to be the son of the said Karunakaran, filed a suit in O.S.No.5272 of 2013 on the file of the XIII Assistant Judge, City Civil Court, Chennai. On receipt of notice from the Civil court, the petitioner had filed a writ petition in W.P.No.32204 of 2016. The petitioner is now bothered about the non-implication of the order of the Division Bench of this court in W.P.No.32204 of 2016 dated 9.10.2015.

3. In para 4 of the judgment, it is stated that the official respondents are not precluded from examining the structure in question, which is alleged to be an encroachment and take appropriate action on merits and in accordance with law, if it is found that the same is unapproved and without authority of law.

4. The petitioner handed over possession wayback in 2000. The grievance of the petitioner/tenant is that the construction put up in the land in question is an unauthorised one and it is liable to be demolished as the same was put up without there being any authority of law.

5. It appears that possession of the land has been handed over by way back in the year 2000 and the right of the petitioner, if any, is only that of a tenant. The inaction on the part of the Commissioner, Corporation or the authorities concerned in taking further action is questioned by the petitioner and though the petitioner would not be having any right to maintain this petition, taking into consideration circumstances under which the petitioner vacated the premises, we hereby direct the respondent-Corporation authorities to take appropriate action in accordance with law within three months from the date of receipt of copy of this order.

6. Though petitioner's right, if any, over the property in question could not be gone into, it appears that in public interest such a petition is filed. While disposing of the writ petition filed by the petitioner as she has no locus standi, the inaction on the part of the authority cannot be condoned. It is for the respondent- Commissioner of Corporation to take appropriate action in accordance with law.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To:

1 The Commissioner
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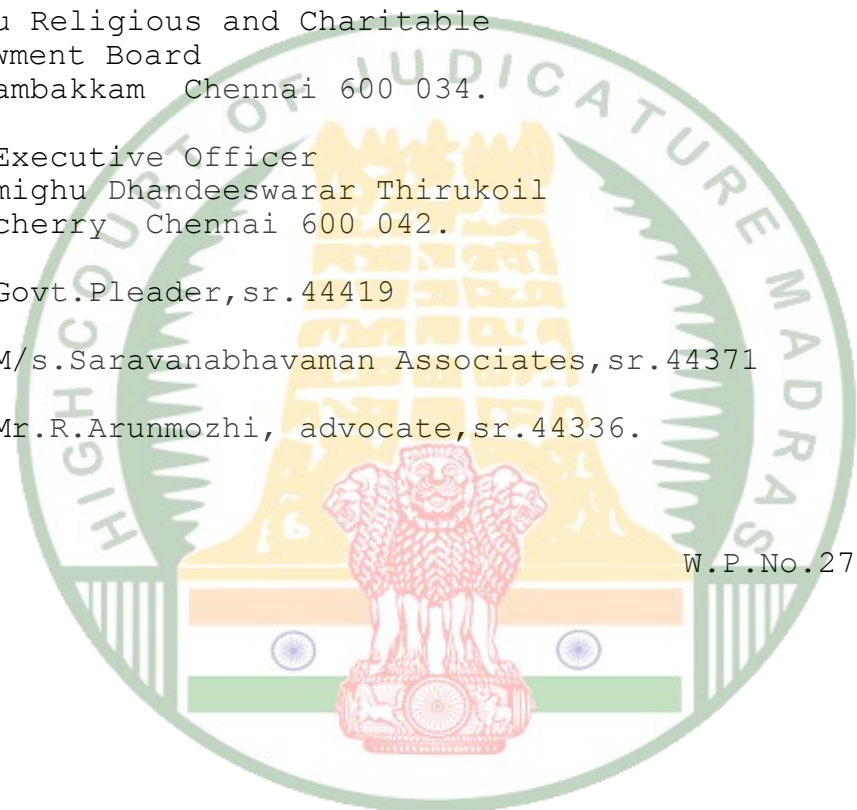
+1 cc to Govt.Pleader, sr.44419

+1 cc to M/s.Saravanabhavaman Associates, sr.44371

+1 cc to Mr.R.Arunmozhi, advocate, sr.44336.

pa(co)
krd 26/8

W.P.No.27242 of 2016

The seal of the High Court of Madras is a circular emblem. It features a central image of the Lion Capital of Ashoka, which is a four-lion capital carved from a single block of dark soapstone. The lions are facing outwards in four directions. Below the lions is a frieze with four panels, each depicting a different scene. The entire seal is surrounded by a green border with the words 'HIGH COURT OF JUDICATURE MADRAS' in white capital letters. Below the seal, the Sanskrit motto 'सत्यमेव जयते' (Satyameva Jayate) is written in Devanagari script.

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