

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.6.2016

CORAM

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

W.A.No.433 of 2016  
and  
C.M.P.No.6296 of 2016

A.Mohammed Saleem Appellant/4<sup>th</sup> Respondent.

Versus

1. Chirthirai Kumar Respondent/Petitioner

2. The Corporation of Chennai,  
rep. by its Commissioner,  
Chennai.

3. The Deputy Revenue Officer,  
Zone 13, Adayar,  
Corporation of Chennai,  
Chennai-20.

4. The Zonal Health Officer,  
Zone 13, Adayar,  
Corporation of Chennai,  
Chennai-20.

Respondents/Respondents 1 to 3

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 29.2.2016 passed in W.P.No.4883 of 2016 on the file of this court. Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in his notice dt 4.2.2016 (served on 5.2.2016) and to quash the same as being illegal and unsustainable in law and for a consequential direction to the respondents to remove a lock and seal place on the shop belonging to the petitioner at No. 39 L.B.Road Adayar Chennai 20 on 6.2.2016 without following the procedure established by law.

For appellant : Mr.G.Jeremiah  
For R1 : Mr.Vijay Narayan, Senior Counsel for  
Mrs.N.Kavitha Ravishankar  
For R2 to R4 : Mr.P.V.Selvakumar

## JUDGMENT

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

Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondents.

2. The applicant, who, claiming to be the owner of the premises, came on record by filing an application for impleading himself in the writ petition, has filed the present writ appeal. He challenges the order passed by the learned Single Judge giving opportunity to the writ petitioner to take remedial steps to carry out the maintenance/renovation work, by directing the authorities to remove the seal they had put to the premises. The main contention of the appellant is that the writ petitioner is an encroacher and hence, the order passed by the learned Single Judge is not sustainable.

3. Be that as it may, the right of the appellant, if any, has to be established not in the writ proceedings, but, in the civil proceedings, as it is a matter of factual finding and only after giving opportunity to contest the parties and after raising relevant issues, the matter has to be disposed of.

4. In that view of the matter, this appeal cannot be entertained. The respondent-Corporation shall consider the direction issued by the learned Single Judge to do the needful. The remedy is left open to the impleading applicant/appellant to approach the appropriate forum. The writ appeal is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

ssk.

s/d-

Assistant Registrar (CS-VII)

True Copy

Sub-Assistant Registrar

To:

1. The Commissioner,  
Corporation of Chennai,  
Chennai.
2. The Deputy Revenue Officer,  
Zone 13, Adayar,  
Corporation of Chennai,  
Chennai-20.
3. The Zonal Health Officer,  
Zone 13, Adayar,  
Corporation of Chennai,  
Chennai-20.

+ 1 cc to Mr.G.Jermiah, Advocate SR 32479

+ 1 cc to Mr.P.V.Selvakumar, Advocate SR 32495

+ 1 cc to Mr.N.Kavitha Rameshuwar, Advocate SR 32516

scd(co)  
prk20/6

W.A.No.433 of 2016



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