

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2016

CORAM:

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

W.P. No.5893 of 2016 and W.M.P. Nos.5253 of 2016

1 Jhansi Rani
2 M. Seetharaman

Petitioners

Vs.

1 The Government of Tamil Nadu
represented by its Secretary
Revenue Administration,
Disaster Management and
Mitigation Department
Fort St. George, Chennai 600 009

2 The District Collector
Kancheepuram District
Kancheepuram

3 The Tahsildar
Thiruporur Taluk
Thiruporur

4 The Revenue Divisional Officer
Chengalpattu Revenue Division
Chengalpattu

5 S. Manjula

6 K. Sundar

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 4 to take necessary action against the respondents 5 and 6 to illegal construction in the ground floor to first floor in the common space on the northern side by obstructing the right of easementary such as air, light and free access in and around the house at No.20, Nagalamman Koil I Street, Tsunami Kudiyiruppu, Karikattukuppam, Muttukadu Village, Tiruporur Taluk, Kancheepuram District, comprised in Survey No.97/4 on the basis of the representation dated 30.12.2015.

For petitioners Mr. R. Thanjan
For respondents Mr. P.S. Sivashanmugasundaram
Special Government Pleader

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for respondents 1 to 4. Notice to respondents 5 and 6 is dispensed with at this stage, inasmuch as no order prejudicial to their interest is passed in this writ petition. Thus, with the consent of the learned counsel for the petitioners and the learned Special Government Pleader, this writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed seeking a writ of mandamus directing the respondents 1 to 4 to take necessary action against the respondents 5 and 6 for putting up illegal construction in the ground floor and first floor in the common space on the northern side of the petitioners' portion by obstructing their easementary right such as air, light and free access in and around the petitioners' house at No.20, Nagalamman Koil I Street, Tsunami Kudiyiruppu, Karikattukuppam, Muttukadu Village, Tiruporur Taluk, Kancheepuram District, comprised in Survey No.97/4 on the basis of their representation dated 30 December 2015.

3 The petitioners are wife and husband respectively. Their case is that their house in the ground floor, where they are residing, was allotted to them by the Government in 2007 on the ground that they were Tsunami victims. While so, respondents 5 and 6, who are also allottees of such a house in the first floor of the building, wherein, the petitioners reside, have encroached the common area in the northern side of the petitioners' house and raised ground floor and first floor, despite serious objections raised by them, inasmuch as their easementary right is affected. In this regard, they have made a complaint to the local authorities on 27 December 2015 followed by another representation dated 30 December 2015. Since the said complaint and representation have not yielded any response from the authorities, the instant writ petition seeking the aforestated relief.

4 Considering the limited scope of the relief sought by the petitioners, without going into the merits of the case, we direct the authorities concerned to consider and pass appropriate orders on the petitioners' representation dated 30

December 2015 on its own merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. Needless to state that an opportunity of hearing be afforded to the private respondents, before taking any consequential action, if need be.

The writ petition stands disposed of with the above direction and observation. Costs made easy. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(VI)

//True Copy//

Sub Assistant Registrar

cad
To

- 1 The Secretary
Revenue Administration, Disaster Management and
Mitigation Department
Government of Tamil Nadu
Fort St. George
Chennai 600 009
- 2 The District Collector
Kancheepuram District
Kancheepuram
- 3 The Tahsildar
Thiruporur Taluk
Thiruporur
- 4 The Revenue Divisional Officer
Chengalpattu Revenue Division
Chengalpattu

+1cc to Mr.R. Thanjan, Advocate, S.R.No.10514

+1cc to the Government Pleader, S.R.No.10418

KJI(CO)
EU(02/03/2015)

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