

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2016

CORAM

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

W.P. No.9648 of 2016
and
W.M.P.No.8668 of 2016

D.Anuradha rep. by her
Power Agent and Father K.Dwarakanathan
S/o.Kandasamy
No.58, Teachers Colony,
Kamarajar Avenue, Adayar,
Chennai 20. .. Petitioner

Vs.

- 1.The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai - 3.
- 2.The Assistant Executive Engineer,
Zone 15, Chennai Corporation,
Sholinganallur, Chennai - 119. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorari to call for the records in respect of impugned notice dated 04.11.2015 bearing number Ma.A.Na.Ka.No.4641/2015 issued by the second respondent and to quash the same.

For Petitioner ... Mr.L.Prabakar

For Respondents .. Mr.R.Arunmozhi

ORDER

(Order of the Court was made by SATISH K.AGNIHOTRI, J.)

Mr.R.Arunmozhi, learned Standing Counsel accepts notice on behalf of the respondents. With the consent of the learned counsel appearing for the petitioner as well as the learned standing counsel for the respondents, the writ petition is taken up for final disposal.

2.Questioning the correctness of the notice dated 04 November 2015 issued by the second respondent, whereunder, a direction was issued to the petitioner to remove the encroachment, the present writ petition is filed.

3.It is the case of the petitioner that she purchased the property in question by sale deed dated 27 March 2002 and after obtaining necessary permission, she had constructed a house/shop in the said property. While so, by the impugned notice dated 04 November 2015, the second respondent informed that the petitioner has encroached 800 feet of park area and directed her to remove the encroachment within a period of one week. Feeling aggrieved, the petitioner has filed the instant writ petition.

4.Learned counsel appearing for the petitioner submits that the petitioner is in possession of the land in question on the basis of the duly obtained patta and the impugned notice dated 04 November 2015 calling upon the petitioner to remove the alleged encroachment was issued, without affording an opportunity of hearing to her. It is further informed that during the pendency of the writ petition, one more notice under Section 220 r/w 222 of Chennai City Municipal Corporation Act (for short 'the Act') has been issued.

5.This Court in Dr.K.Rajesh Kumar Vs. The Commissioner, Corporation of Chennai and Others¹ and Arputham Vs. Zonal Officer and Others² has clearly held that notices under both provisions are not maintainable.

6.Learned standing counsel appearing for the respondents, on instructions, submits that the subsequent notice dated 02 March 2016 may be treated as a notice under Section 220 of the Act, affording an opportunity of hearing to the petitioner to place her case.

1 order dated 02.03.2015 in W.P. No.5369 of 2015

2 order dated 07.11.2013 in W.P. No.29485 of 2013

7.In such view of the matter, without going into the merits of the case, we treat the notice dated 02 March 2016 as a notice issued under Section 220 of the Act alone, reserving liberty to the petitioner to file her reply/representation within a period of two weeks. Thereafter, on proper examination, advertng to the objections raised by the petitioner, it is open to the Corporation to pass an order, if need be, under Section 222 of the Act and take consequential action.

8.With the aforestated observation and direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

mmi

To

1.The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai - 3.

2.The Assistant Executive Engineer,
Zone 15, Chennai Corporation,
Sholinganallur, Chennai - 119.

+1 cc to M/s.Arunmozhi, Advocate, sr.20663

+2 CCs to Mr.Prabakar, Advocate, sr.20447

W.P.No.9648 of 2016

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kra 11.04.2016

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