

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.7208 of 2017

and

W.M.P.No.7839 of 2017

R.Gomathy

.. Petitioner

Vs.

1. The Assistant Commissioner,
Zone-10, Corporation of Chennai,
117, NSK Road, Kodambakkam,
Chennai-24.
2. The Executive Engineer,
Zone - 10, Corporation of Chennai,
117, NSK Road, Kodambakkam,
Chennai-24.
3. The Assistant Executive Engineer,
Zone - 10, Corporation of Chennai,
117, NSK Road, Kodambakkam,
Chennai-24.
4. The Junior Engineer,
Corporation of Chennai,
Division 135,
Thambaiah Street,
West Mambalam,
Chennai - 600 033.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of certiorari to call for the notice dated 10.03.2017 in Notice No.z o x c.No.0030/2017 issued by the first respondent and quash the same.

For Petitioner

: Mr.R.Vijayaraghavan

For Respondents

: Mr.V.C.Selvasekaran

ORDER

(Order of the Court was made by the Acting Chief Justice)

Mr.V.C.Selvasekaran, learned counsel takes notice for the respondents.

2. Heard the learned counsel for the parties.

3. The petitioner has filed this writ petition seeking to quash the notice issued by the first respondent dated 10.03.2017.

4. It is the case of the petitioner that she is the owner of the building acquired by way of settlement through her husband Ramesh. One Saraswathi earlier filed W.P.No.17610 of 2010 seeking to stop the illegal construction and to remove and demolish the illegal construction made on the public street by petitioner's husband. This Court, vide order dated 07.11.2016, directed the respondent authorities to cause an inspection and take action in accordance with law. Consequent to the same, impugned notice was issued to the petitioner's husband on 10.3.2017 directing to remove the encroachment within seven days. The petitioner's husband replied to the said notice on 14.03.2017. However, apprehending that coercive action would be taken by the respondent authorities, petitioner has filed the writ petition seeking the relief stated supra.

5. The learned counsel for the petitioner submits that the petitioner is the owner of the building in question, whereas eviction notice was served on the petitioner's husband. There was no encroachment as alleged in the notice.

6. The learned counsel for the respondents submits that only after causing an inspection, eviction notice was issued. He further submits that the encroachment made by the petitioner or her husband has affected free flow of traffic and is also causing inconvenience to the public.

7. On a perusal of the typed set of documents, we find that already a civil suit in O.S.No.2990 of 2013 on the file of City Civil Court, Chennai for declaration and for mandatory injunction to demolish and remove the structure was filed by Babu and others against the petitioner, her husband and others, wherein the petitioner has been arrayed as fifth defendant. It appears that there is a dispute between the petitioner and her husband Ramesh.

8. Pursuant to the direction issued in W.P.No.17610 of 2010, the Corporation officials have issued notice to the petitioner's husband calling upon him to remove the encroachment. In his reply to the eviction notice, the petitioner's husband states that there was no encroachment. Admittedly, the petitioner herein is not a party in W.P.No.17610 of 2010.

9. In view of the above submission, we direct the petitioner to give reply to the eviction notice dated 10.3.2017 enclosing

all relevant documents within a period of one week from the date of receipt of a copy of this order. On receipt of such reply, the respondent authorities shall take a decision in accordance with law after affording an opportunity to all parties within a period of two months thereafter. Till then, no coercive steps shall be taken by the respondent authorities.

10. The writ petition, accordingly, stands disposed of. No costs. Consequently, W.M.P.No.7839 of 2017 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Commissioner,
Zone-10, Corporation of Chennai,
117, NSK Road, Kodambakkam,
Chennai-24.
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Chennai - 600 033.

+2cc to Mr.Vijayaragavan, Advocate, S.R.No.19278,19279

W.P.No.7208 of 2017

GJ(CO)
RS(11/04/2017)