

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2017

CORAM

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

AND

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.5189 of 2017

K.Selvi

... Petitioner

Vs.

1. The Commissioner
Corporation of Chennai
Rippon Building
Chennai - 600 003.
 2. The Executive Engineer
Corporation of Chennai, Zone-XI
Valasaravakkam, Chennai - 600 087.
 3. The Assistant Executive Engineer
Corporation of Chennai, Zone-XI
Unit 32, Valasaravakkam, Chennai - 87.
 4. The Zonal Officer
Corporation of Chennai, Zone-XI
Valasaravakkam, Chennai - 600 087.
 5. The Assistant Engineer
Corporation of Chennai
Zone-XI, Ward 144
Maduravoyal, Chennai - 95.
 6. The Deputy Commissioner of Police
K4 Anna Nagar Police Station
3rd Avenue, P-Block, Anna Nagar,
Chennai - 600 040.
 7. The Inspector of Police
K-10, Koyambedu Police Station
Koyambedu
Chennai - 600 107.
- .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus forbearing the respondents from demolishing or taking any coercive steps as against the petitioner's building situated in Survey No. 128/1, Varalakshmi Nagar, Maduravoyal Village, Chennai - 600 095, Ambattur Taluk, Thiruvallur District to an extent of 4,441 sq. ft. of house until the outcome of the Appeal Suit in A.S.No. 40/2015 pending on the file of Learned Sub Court at Poonamallee.

For Petitioner : Mr.A.Rajesh Kanna

For Respondents : Mr.M.K.Subramanian
Government Pleader
for respondents 6 and 7

Mr.V.C.Selvasekaran
for respondents 1 to 5

ORDER

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

Mr.V.C.Selvasekaran, learned counsel takes notice for respondents 1 to 5 and Mr.M.K.Subramanian, learned Government Pleader takes notice for respondents 6 and 7.

2. Heard the learned counsel for the parties.

3. The petitioner has filed this writ petition seeking issuance of a writ of Mandamus forbearing the respondents from demolishing or taking any coercive steps as against the petitioner's building situated in Survey No. 128/1, Varalakshmi Nagar, Maduravoyal Village, Chennai - 600 095, Ambattur Taluk, Thiruvallur District to an extent of 4,441 sq. ft. of house until the outcome of the Appeal Suit in A.S.No. 40/2015 pending on the file of Learned Sub Court at Poonamallee.

4. The petitioner claims to be in possession and enjoyment of the property of an extent of 4441 Sq.Ft. Alleging that the petitioner has encroached upon government land, the respondent/authorities issued notice directing her eviction. It is stated that the petitioner has filed a suit before the the District Munsif Court, Poonamallee in O.S.No.205 of 2014 seeking declaration, but the same was dismissed. Assailing the same, the petitioner filed an appeal in A.S.No.40 of 2015 and the same is pending before the Sub Court, Poonamallee. In such circumstances, the present writ petition is filed to forbear the respondent/authorities from taking any action pending disposal of the appeal suit.

5. In short the petitioner is seeking extended stay in the said premises pending the appeal suit, which, in our considered opinion, cannot be permitted. The respondent/authorities have found that the petitioner is an encroacher, while the same is disputed by the petitioner. It is not for this court to go into such disputed facts. It is for the petitioner to file suitable application before the Sub Court, Poonamallee, seeking interim relief, if so advised.

The writ petition is dismissed. No costs. Consequently, W.M.P.No.5478 of 2017 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sasi
To:

1. The Commissioner
Corporation of Chennai
Rippon Building
Chennai - 600 003.
2. The Executive Engineer
Corporation of Chennai, Zone-XI
Valasaravakkam, Chennai - 600 087.
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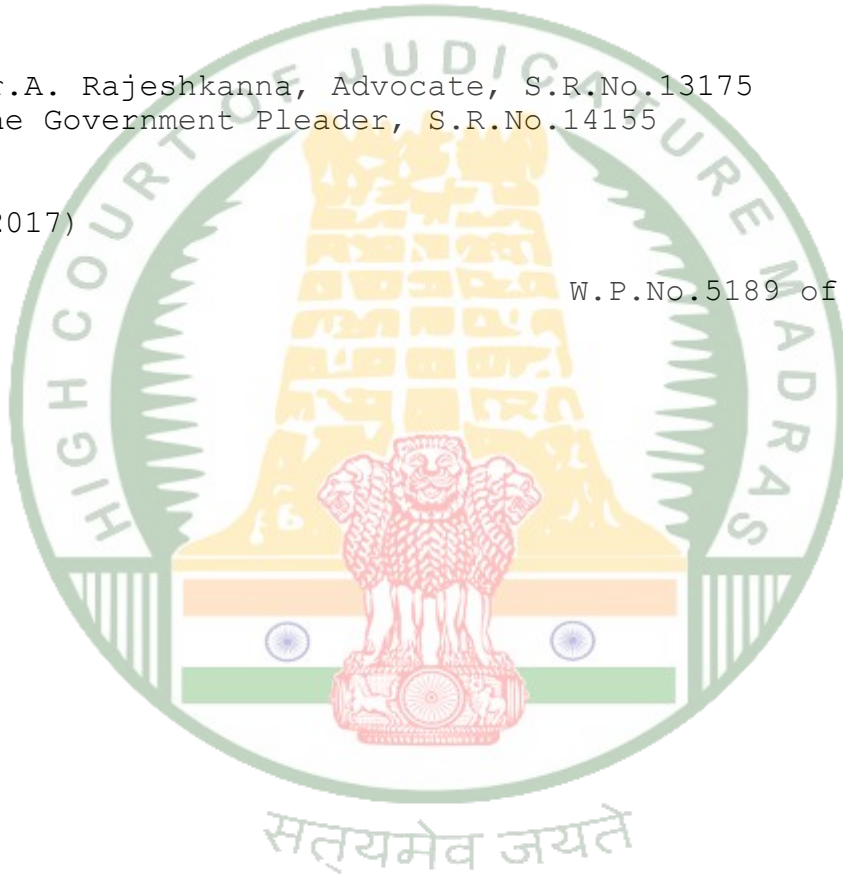
6. The Deputy Commissioner of Police
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3rd Avenue, P-Block, Anna Nagar,
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7. The Inspector of Police
K-10, Koyambedu Police Station
Koyambedu
Chennai - 600 107.

+1cc to Mr.A. Rajeshkanna, Advocate, S.R.No.13175
+1cc to the Government Pleader, S.R.No.14155

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W.P.No.5189 of 2017



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