

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.7412 of 2017

R.Ramanathan

.. Petitioner

Vs

1 The Block Development Officer/
Special Officer (Panchayat)
Vengaivasal Panchayat
St. Thomas Mount Union
No.1, Chittlapakkam Main Road
Chittlapakkam, Chennai-64.

2 A.Sekar

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the 1st respondent to take necessary action as against the illegal and unauthorised construction by the 2nd respondent in Plot No.1, Kambar Street Cross, Panchayat Office Backside, Vengaivasal, Chennai-126.

For Petitioner : Ms.R.Kamalarani
For Respondents : Mr.M.K.Subramanian
Government Pleader
for 1st respondent

ORDER

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

Mr.M.K.Subramanian, learned Government Pleader takes notice for the first respondent. Notice to the second respondent is dispensed with.

2. The petitioner has filed this writ petition seeking issuance of a writ of Mandamus directing the first respondent to take necessary action as against the illegal and unauthorised construction by the 2nd respondent in Plot No.1, Kambar Street Cross, Panchayat Office Backside, Vengaivasal, Chennai-126.

3. The petitioner is a resident of Vengaivasal. It is his

plea that the second respondent is putting up construction without any approval and by encroaching on the public road, thereby causing hindrance to the passersby. The residents of the locality have made objection for the construction being made by the second respondent, however he had not stopped the construction work. The petitioner also sought for the details of the approval/planning permission granted to the second respondent by filing an application under the Right to Information Act, but till date no particulars have been received by him. Pending the same, the petitioner has filed this writ petition for the relief stated supra.

4. It is well settled that a neighbour who is aggrieved by the construction allegedly in contravention of the building plan has no locus standi to question the same in a public law remedy. If the neighbour is aggrieved with reference to the deprivation of corporeal rights as well as incorporeal rights - deprivation of property, violation of right to privacy etc., the only remedy is by way of a civil suit for declaration of easementary rights and consequential injunction. In either case, namely, whether a person is deprived of the property due to the encroachment or a person's right to privacy is violated by virtue of illegal constructions, preventing free light and air into the house, the matters need consideration of elaborate evidence and it is not for this Court exercising jurisdiction under Article 226 of the Constitution of India to go into the disputed questions of fact.

5. For the foregoing reasons, the writ petition is disposed of. No costs. Consequently, W.M.P.No.8067 of 2017 is closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

sasi

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To:

- 1 The Block Development Officer/
Special Officer (Panchayat)
Vengaivasal Panchayat
St. Thomas Mount Union
No.1, Chittlapakkam Main Road
Chittlapakkam, Chennai-64.

+lcc to Ms.Kamalarani, Advocate, S.R.No.19596
+lcc to the Government Pleader, S.R.No.19479

W.P.No.7412 of 2017

SVI (CO)
RS (10/04/2017)



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