

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2017

CORAM

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

W.P.No.5729 of 2017
and
W.M.P.No.6113 of 2017

Dr.R.Srinivasan .. Petitioner

Vs.

- 1 The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
2. The Executive Officer,
Chithlapakkam Town Panchayat,
Chithlapakkam,
Chennai - 600 064
Kancheepuram District.
3. C.Venkatesh ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of mandamus to direct the respondents 1 and 2 to consider the representation of the petitioner dated 04.1.2017 and dispose of the same within a time frame fixed by this Court in accordance with the statutory provisions after giving an opportunity to the petitioner in person.

For Petitioner : Mr.R.Gopinath
for M/s.McGAN Law Firm

For Respondents : Mr.K.Rajasrinivas
for 1st respondent

ORDER

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

Mr.K.Rajasrinivas, learned counsel takes notice for the first respondent.

2. The petitioner has filed the writ petition seeking issuance of a Writ of Mandamus to direct respondents 1 and 2 to consider the representation of the petitioner dated 04.1.2017 and dispose of the same in accordance with the statutory provisions after giving an opportunity to the petitioner in person.

3. It is the case of the petitioner that he is the owner of the property bearing Door No.3/7, First Street, Jothi Nagar, Chitlapakkam, Chennai. The third respondent, who had purchased a portion of the property measuring an extent of 700 square feet in Plot No.36, bearing Door No.3/7, started construction work abutting the compound wall of the petitioner without leaving any egress and ingress to the petitioner. The petitioner also alleged that the construction is without planning permission. The petitioner sent a lawyer notice to the third respondent on 21.11.2016 not to proceed with the construction work. On 04.1.2017, the petitioner submitted a representation to the respondent/authorities to take action against the construction of the third respondent. Since the respondent/authorities have not taken any action, the petitioner has approached this Court for the relief stated supra.

4. Heard the learned counsel for the petitioner and the learned counsel appearing for the first respondent.

5. The main grievance of the petitioner is that the third respondent is putting up construction by obstructing the light and air. The same was brought to the notice of respondents 1 and 2 by way of representation on 04.01.2017. Despite receipt of the representation, the respondent/authorities have not taken any action.

6. We are of the view that the dispute between the petitioner and the private third respondent regarding easementary right is purely civil in nature. As far as the blockage of light and air alleged by the petitioner is concerned, as stated above, the remedy lies before the Civil Court and not before the High Court and the same is a matter of evidence. The High Court is not meant to conduct roving enquiry into the allegation of violations of personal civil rights.

7. The writ petition is dismissed. No costs.
Consequently, W.M.P.No.6113 of 2017 is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To:

- 1 The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
2. The Executive Officer,
Chithlapakkam Town Panchayat,
Chithlapakkam,
Chennai - 600 064
Kancheepuram District.

+1 CC to M/s. Mcgan Law Firm, sr 15095
+1 CC to Mr.K. Rajashrinivas, sr 14798
+1 CC To Govt. Pleader High Court, Madras sr 15027

W.P.No.5729 of 2017

RSK (CO)
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