IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.6844 of 2017
and
W.M.P.No.7407 of 2017

1.M.Francis

2.S.Joseph .. Petitioners

Vs.

1 The Commissioner
Corporation of Chennai
Ripon Building
Chennai

2 The Zonal Officer
Corporation of Chennai
Zone-12, Alandur
Chennai

3 The Thasildar
Sriperumbudur Taluk Office
Sriperumbudur

4 The District Collector
Kancheepuram District

5 M/s.Chennai Metropolitian Development Authority
Rep by Member Secretary
Thalamuthu Natarajan Building
No.1 Gandhi Irwin Road
Egmore, Chennai-600 008

6 The Executive Officer
Kundrathur Panchayat Union
Padappai-602 301

7 Kumari

8 Sam .. Respondents

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PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the 1st to 6th respondents to remove the illegal super structure constructed by the 7th and 8th respondents measuring an extent of 1200 sq.ft. at Manapakkam Village Survey No. 436 (Earmarked for the park area) Sriprembudur Taluk.

For Petitioner : Mr.T.Ramachandran

For Respondents : Mr.V.C.Selvasekaran
for respondents 1 and 2
Mr.R.Vijayakumar
Addl. Government Pleader
for respondents 3 to 6

ORDER

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

Mr.V.C.Selvasekaran, learned counsel takes notice for respondents 1 and 2. Mr.R.Vijayakumar, learned Additional Government Pleader takes notice for respondents 3 to 6.

2. The petitioner has filed the writ petition seeking issuance of a writ of mandamus directing respondents 1 to 6 to remove the illegal super structure constructed by respondents 7 and 8 measuring an extent of 1200 sq.ft. in Survey No. 436 (Earmarked for the park area), situated at Manapakkam Village, Sriprembudur Taluk.

3. It is the case of the petitioner that respondents 7 and 8 have encroached upon the park area and put up constructions. The petitioner has made a complaint to the respondent authorities for removal of the encroachment. The District Collector, Kancheepuram also advised the Tahsildar to take action against the illegal encroachment. It is the further case of the petitioner that the petitioner has also filed suit before the District Munsif Court, Sriperumbudur in O.S.No.14 of 2013 for removal of the encroachment and other reliefs. The said suit was decreed on 05.01.2015. Despite several representations sent and decree obtained in the suit, respondent authorities have not taken any action to remove the encroachment in the park area.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

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5. The learned counsel for the petitioner submitted that respondents 7 and 8 have encroached upon the park area in S.No.436 and have put up constructions. The learned counsel for the petitioner further submitted that the first petitioner has already filed a civil suit in O.S.No.14 of 2013 on the file of the District Munsif cum Judicial Magistrate Court, Sriperumbudur in respect of the park area, wherein the husband of the seventh respondent is a party and the said suit was decreed exparte on 05.01.2015 granting mandatory injunction directing the first defendant therein to remove the encroachment. Despite civil court decree and receipt of the representation, the respondent authorities have not taken any action to remove the encroachment in the park area.

6. On hearing the learned counsel for parties, we are of the view that when the petitioner has already approached the civil court and obtained exparte mandatory injunction for removal of the encroachment in the park area and other reliefs, it is for him to approach the civil court seeking appropriate remedy and no directions could be passed in this petition.

8. The writ petition, accordingly, stands disposed of. However, this will not preclude the respondent authorities from proceeding in accordance with law based on the letters already exchanged. No costs. Consequently, W.M.P.No.7407 of 2017 is closed.

s/d-
Assistant Registrar(

True Copy

Sub-Assistant Registrar

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To:

1 The Commissioner
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Ripon Building,Chennai

2 The Zonal Officer
Corporation of Chennai
Zone-12, Alandur, Chennai

3 The Thasildar
Sriperumbudur Taluk Office, Sriperumbudur.

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6 The Executive Officer
Kundrathur Panchayat Union
Padappai-602 301

+1cc to Government Pleader SR.No.17598
+1cc to Mr.T.Ramachandran, Advocate SR.No.17547
+1cc to Mr.K.Rajasrinivas, Advocate SR.No.17384

W.P.No.6844 of 2017

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