

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2017

CORAM

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

W.P.No.7922 of 2017

A.Khader Basha @ Khader Bhai .. Petitioner

Vs

The Commissioner
Poonamallee Municipality
Chennai - 56. .. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari calling for records of the respondent dated 17.03.2017 in Rc.No.1431/2016/F1 and quash the same.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondent : Mr.R.Sivakumar

ORDER

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

Mr.R.Sivakumar, learned counsel takes notice for the respondent.

2. The petitioner has filed this writ petition seeking issuance of a writ of Certiorari calling for records of the respondent dated 17.03.2017 in Rc.No.1431/2016/F1 and quash the same.

3. When the petitioner was directed to remove the encroachment, he filed W.P.No.4353 of 2017, wherein this Court by order dated 22.2.2017 directed the respondent authorities to consider the explanation of the petitioner within 15 days and to maintain status quo till then. Now, the respondent authorities have rejected the explanation of the petitioner and directed removal of encroachments. Hence, the petitioner has filed this writ petition on the grounds that the petitioner's property is situate in Cantonment S.No.404/2 having Patta No.783, whereas

the impugned order refers to S.Nos.246/1 and 246 and that the petitioner has put up construction only after obtaining planning permission.

4. On hearing the learned counsel for the parties and taking note of the specific plea of the petitioner that his property is situate in S.No.404/2 and not in S.Nos.246/1 and 246, we direct the respondent to conduct a survey of the property of the petitioner based on the title deeds and if on such survey it is found that the petitioner is in possession of any excess land, the encroached portion may be removed. Till the said exercise is undertaken, the respondent is directed not to take any coercive action against the petitioner. The respondent is also directed to protect the water body by putting up fencing.

The writ petition is disposed of accordingly. No costs. Consequently, W.M.P.Nos.8668 and 8669 of 2017 are closed.

-s/d-

Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

To:

The Commissioner
Poonamallee Municipality
Chennai - 56.

+1 CC to Mr. N.A. Nissar Ahmedm, sr 19910

+1 Cc to Mr. R. Sivakumar, sr 20264

सत्यमेव जयते

W.P.No.7922 of 2017

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