

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.11.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN  
AN  
THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

WP.No.31006/2017 & WMP.No.33980/2017

P.Ramu rep.by his Power of Attorney  
N.Thirunavukarasu

..Petitioner

Versus

1.The Executive Engineer  
The Greater Chennai Corporation  
Zone-VII, Ambattur, Chennai-53.

2.The Tahsildar  
Ambattur, Chennai 53.

..Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus forbearing the 1<sup>st</sup> respondent herein from further demolishing the petitioner's building in the land owned by the petitioner admeasuring 1800 square feet of the land comprised in S.No.61/2 Ward-H, Block No.14, TS.No.48/2, Mogappair Village, Ambattur Taluk, Tiruvallur District.

For Petitioner : Mr.S.Jayakumar  
For R1 : Mr.A.Nagarajan  
For R2 : Mrs.M.E.Rani Selvam, AGP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ petition is taken up for final disposal. Mr.A.Nagarajan, learned Standing counsel accepts notice on behalf of the 1<sup>st</sup> respondent and Mrs.M.E.Rani Selvam, learned Additional Government Pleader accepts notice on behalf of the 2<sup>nd</sup> respondent.

2 The deponent of the affidavit is the Power of Attorney Agent of Mr.P.Ramu, and he would aver that 1800 sq.ft., of land comprised in S.No.61/2, Mogappair Village, Ambattur Taluk, Tiruvallur District, belong to his Principal, viz., Mr.P.Ramu, and it was assigned to him vide proceedings bearing No.C/23/7B dated 23.08.1999 [HS No.3562/83] by the Special Tahsildar,

Saidapet, Chennai and as per the said assignment, the above 4.25 cents of land was handed over to him with a condition that the Principal / beneficiary, shall construct a superstructure and leave 5 feet vacant land on all four directions. It is further averred that the Principal in turn, had appointed the deponent of the affidavit as his Power Agent coupled with interest vide registered Document bearing No.924/2000 dated 22.12.2000. It is further claimed that a superstructure has also been put up on the said land and it is also subjected to statutory levies and the superstructure has also been given electricity supply connection. The grievance expressed by the petitioner is that the officials of the Greater Corporation of Chennai, without any authorisation whatsoever, had trespassed upon his land and started demolishing the superstructure and in this regard, the Power of Attorney has submitted representations dated 30.08.2017 and 06.09.2017 respectively to the jurisdictional Corporation officials in person and despite receipt and acknowledgment, no action has been so far and hence, came forward to file the present writ petition.

3 The learned counsel for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that the Principal of the Power of Attorney Agent has been assigned with a land admeasuring to an extent of 4.25 cents vide Assignment Order dated 23.08.1999 and the writ petitioner has also put up a superstructure and it is also subjected to statutory levies and without recourse to law, the officials of the Greater Corporation of Chennai had barged into the premises and also demolished the superstructure and attempting to put up a new construction and they should be restrained from doing so.

4 Per contra, Mr.A.Nagarajan, learned Standing counsel appearing for the 1<sup>st</sup> respondent would submit that for having submitted the representations, there is no acknowledgment available and since the matter involves adjudication on disputed question of facts, the remedy open to the petitioner, if any, is to avail the common law remedy.

5 The Court heard the submissions of Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing for the 2<sup>nd</sup> respondent on the above submissions made by the learned counsel for the petitioner as well as by the learned Standing counsel appearing for the 1<sup>st</sup> respondent.

6 The Power of Attorney Agent claims that he has submitted representations to the Zonal Commissioner, Ambattur, as well as the Zonal Officer, Zone-VII on 30.08.2017 and 06.09.2017 respectively and as rightly pointed out by the learned Standing counsel appearing for the 1<sup>st</sup> respondent, there is no acknowledgment available. A perusal of the said

representations would also disclose that there is no indication as to how the writ petitioner claims right over the property and no documents have also been enclosed.

7 At this juncture, the learned counsel for the petitioner prays the leave of this Court to permit the petitioner to submit a fresh representation to the 1<sup>st</sup> respondent by enclosing the relevant and authenticated documents with a further direction to dispose of the same at an early date and till such time, prayed for forbearing the Corporation of Chennai from proceeding further in construction of the new superstructure.

8 This Court has considered the rival submissions and also perused the materials placed before it.

9 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in his representations or in this writ petition, permits the petitioner to submit a detailed representation to the 1<sup>st</sup> respondent along with a copy of this order and also enclosing relevant and authenticated documents as to his right, title and possession in respect of the land in question, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the 1<sup>st</sup> respondent, is directed to consider the said representation on merits and in accordance with law and pass appropriate orders within a period of six weeks thereafter and communicate the decision taken, to the petitioner and till such time, neither the petitioner nor the 1<sup>st</sup> respondent shall do anything with regard to the land in question and shall maintain Status Quo as per the photographs available at page No.20 of the typed set of documents. It is also made clear that till the disposal of the representation by the 1<sup>st</sup> respondent, the petitioner, viz., Mr.P.Ramu [Principal] or his Power of Attorney Agent, viz., Mr.N.Tirunavukarasu, shall not create any third party rights in respect of the land in question.

10 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

AP

To

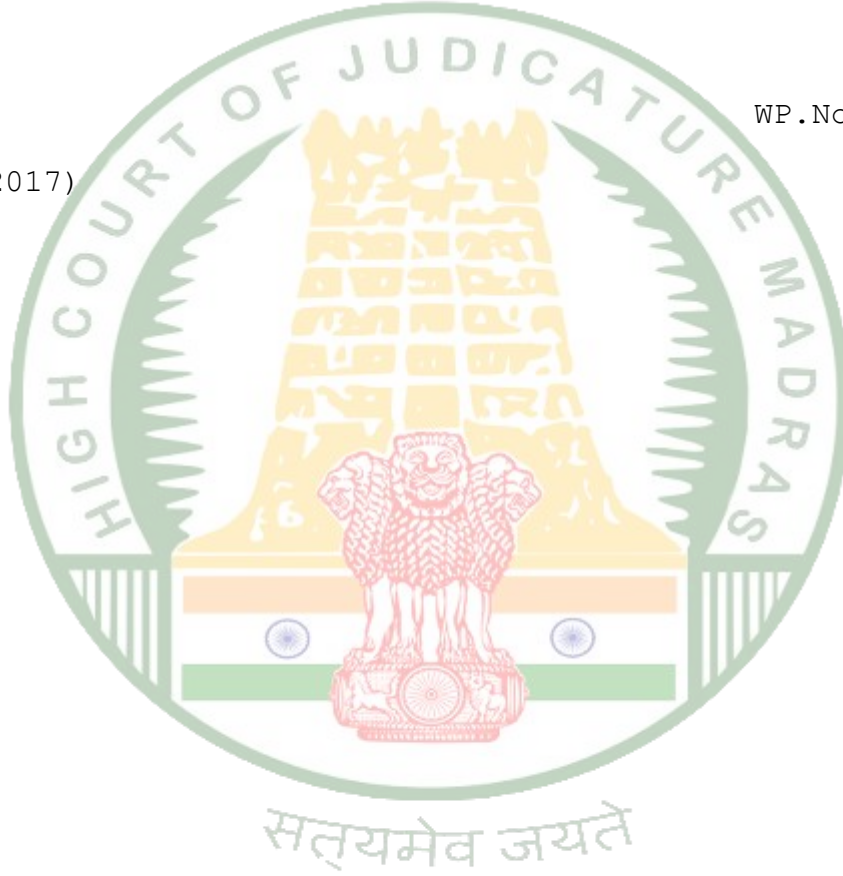
1.The Executive Engineer  
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Ambattur, Chennai 53.

+2 Ccs to Mr.S. Jayakumar, advocate sr 84852.  
+1 CC to Govt. Pleader sr 85436.

WP.No.31006/2017

SP(13/12/2017)



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