

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

W.P.No.31600 of 2017 and
WMP.No.34726 of 2017

Mrs.Logambal

..Petitioner

Vs

1. The Government of Tamil Nadu,
rep.by its Secretary,
Housing and Urban Development Department,
Secretariat, Fort St.George,
Chennai-600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai.
3. The Commissioner,
Corporation of Chennai,
Rippon Building,
Park Town, Chennai-600 003.
4. The Executive Engineer,
Corporation of Chennai,
Old Washermenpet, Chennai.
5. The Assistant Engineer,
Corporation of Chennai,
Old Washermenpet,
Chennai.

6.Balaji

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 to 5 to take action against the construction which is constructed without planning permission and upon and unapproved plot by the 6th respondent in the property situated at Old Door No.13, New Door No.12, 1st Muthiah Mudali Lane, Old Wsashermenpet, Chennai 600 021.

For Petitioner : Mr.M.L.Ramesh
For Respondents: Mrs.M.E.Raniselvam for R1
Mr.A.Kumar for R2
Mr.A.Nagarajan for R3 to 5

ORDER

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

By consent, the writ petition is taken up for final disposal. Since no relief can be claimed against the 1st respondent, this Court construes that the 1st respondent need not be a necessary party. Mr.A.Kumar, learned Standing counsel accepts notice on behalf of the 2nd respondent and Mr.A.Nagarajan, learned Standing counsel accepts notice on behalf of the respondents 3 to 5.

2 The petitioner in the affidavit filed in support of this writ petition would aver among other things that she was the granddaughter of late Gangaruyyah who had purchased the property bearing Old Door No.13, New Door No.12, 1st Muthiah Mudali Lane, Old Washermenpet, Chennai-600 021, through Document No.4236 of 1965 and he died on 24.11.1998 and prior to his demise, his wife had predeceased him.

3 The petitioner would further state that her grandparents left two daughters, namely late Andammal and late Devagi. The wife of the deceased son viz., Mrs.Lakshmiammal succeeded to the estate and her daughter Amirthavalli died as spinster. The petitioner would further allege that the grandfather has executed Settlement Deed dated 17.10.1972 in favour of daughter-in-law and her brother, who in turn executed a Will in favour of the 6th respondent and as such, the 6th respondent claims title over the property. The petitioner would further state that she has also filed suit for partition and permanent injunction restraining the defendant from alienating the suit property and the said suit is pending adjudication and however, during the pendency of the suit, the 6th respondent without any permission or authorization has demolished the entire building and started putting up new construction without any planning permission or authorization whatsoever. In this regard, she has submitted a representation dated 05.10.2017 to the respondents and in spite of receipt and acknowledgment, no orders have been passed and hence, the petitioner came forward to file this writ petition.

4 Mr.M.L.Ramesh, learned counsel appearing for the petitioner has drawn the attention of this Court to the typedset of documents and would submit that pendency of the suit does not give any right to the defendants to alter the physical features of the property and the 6th respondent/1st defendant had

demolished the property in its entirety and also started to put up new construction without any planning or approval and left with no other option, the petitioner is constrained to approach this Court to file this writ petition and as per representation submitted, he has failed to invoke any kind of response.

5 The Court heard the submissions of Mr.A.Kumar, learned standing counsel appearing for the 2nd respondent and Mr.A.Nagarajan, learned standing counsel appearing for the respondents 3 to 5 and also perused the materials placed before it.

6 Though the petitioner prays for 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 representation or in this writ petition, directs the Zonal Officer, Zone 5, Corporation of Chennai, after putting the petitioner as well as the 6th respondent on notice, shall cause inspection of the premises bearing Old Door No.13, New Door No.12, 1st Muthiah Mudali Lane, Old Washermenpet, Chennai-600 021, within a period of four weeks from the date of receipt of a copy of this order and depending upon the result of the inspection, shall consider and dispose of the petitioner's representation dated 05.10.2017, in accordance with law within a further period of three weeks thereafter and communicate the decision taken to the petitioner as well as to the 6th respondent herein.

7 In the result, the writ petition stands disposed of. No costs. Consequently connected miscellaneous petition is also closed.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Government of Tamil Nadu,
rep.by its Secretary,
Housing and Urban Development Department,
Secretariat, Fort St.George,
Chennai-600 009.

WEB COPY

2.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai.

3.The Commissioner,
Corporation of Chennai,
Rippon Building,
Park Town, Chennai-600 003.

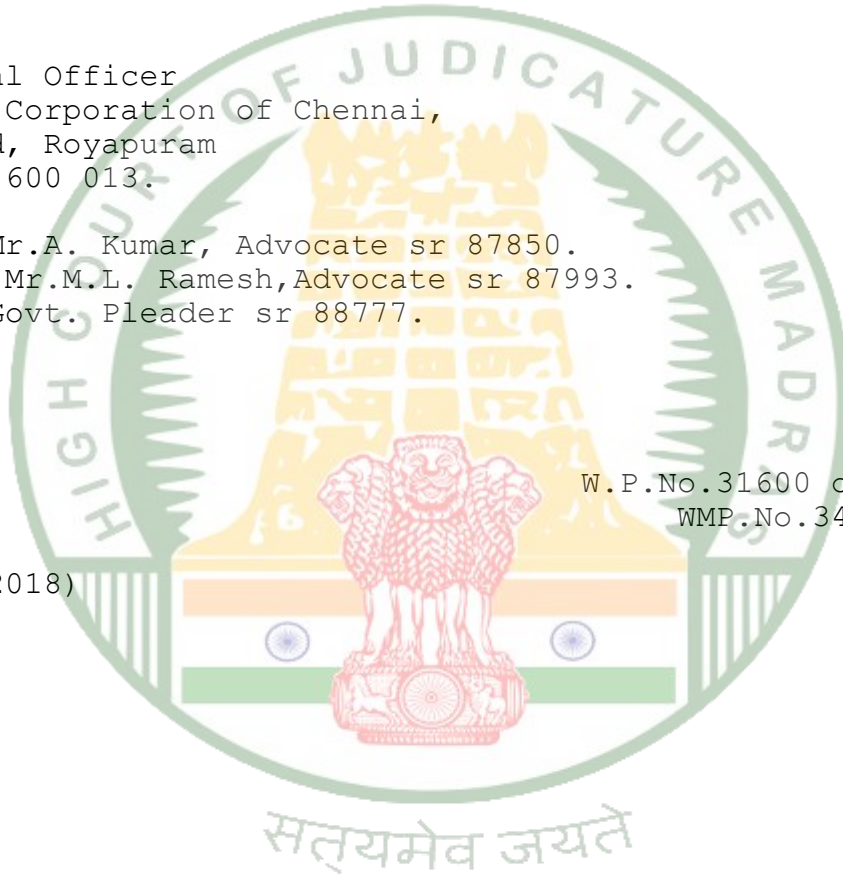
Copy to:

4.The Zonal Officer
Zone-5, Corporation of Chennai,
M.C.Road, Royapuram
Chennai 600 013.

+1 CC to Mr.A. Kumar, Advocate sr 87850.
+3 Ccs to Mr.M.L. Ramesh,Advocate sr 87993.
+1 cC to Govt. Pleader sr 88777.

SP(03/01/2018)

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