

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.12.2017
CORAM:
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM
WP No.33134/2017

T.S.Srinivasan

..

Petitioner

Vs

- 1.The District Collector
O/o.The District Collector
Tiruvallur District.
- 2.The Commissioner
Greater Chennai Corporation
Rippon Building
Chennai 600 003.
- 3.The Zonal Officer
Greater Chennai Corporation
Zone-7, MTH Road, Ambattur
Chennai 600053.

4.R.Ponnuraj

5.P.Seethalakshmi

...

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 3rd respondent to remove the encroachment made by the 4th and 5th respondents in Open Space Reserve land embarked as Park as per the MMDA Approved Layout for Sree Senthil Murugan Nagar, Kallikuppam, Ambattur, Chennai, dated 08.12.2987, consequently to construct permanent compound wall with gate by developing the OSC land as Park as per the boundary shown in the MMDA approved plan.

For petitioner : Mr.R.Amardeep
For R1 : Mr.M.Digvijaya Pandian, AGP
For RR 2 & 3 : Mr.K.Soundararajan

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.M.Digvijaya Pandian, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Mr.K.Soundararajan, learned Standing counsel accepts notice on

behalf of the respondents 2 and 3.

2 The petitioner claims that he is the owner of the Plot allotted for "shop" in Shree Senthil Murugan Nagar, Kallikuppam, Ambattur, Chennai-3 and it is one of the plots allotted in the approved layout. The petitioner would further state that opposite to his plot is the Open Space Reserve [OSR] Land meant to be developed as a park as per the approved layout conditions and the Regional Deputy Commissioner [Central], Greater Chennai Corporation, had sent notices to the encroachers on the said land during February 2012, viz., Tmt.Seethalakshmi, Thiru.Kannan and Tmt.Amudha and they had filed WP.Nos.12642, 12643 and 12644/2017 respectively, praying for issuance of a writ of certiorarified mandamus, to quash the notice dated 20.02.2015 issued by the Regional Deputy Commissioner, [Central], Corporation of Chennai, Chennai-3 and the consequential eviction notice dated 15.02.2017 issued by the 3rd respondent herein with a further direction, directing them to allot suitable and proper site for their residence. When the writ petition was called on 01.06.2017, there was no appearance on behalf of the petitioners and this Court, taking into consideration the stand of the respondents in the counter affidavit that the petitioners had encroached upon the OSR Land meant for park and that the action is being taken to remove the same u/s.220 read with 222 of the Chennai City Municipal Act, 1919, had dismissed the writ petitions.

3 The learned counsel appearing for the petitioner would submit that though the writ petitions came to be dismissed as early as on 01.06.2017, the encroachments caused by the petitioner in WP.No.14642/2017 - the 5th respondent herein, have not been removed and taking advantage of the laxity on the part of the Corporation of Chennai, the 5th respondent had settled the said property in favor of her husband, viz., the 4th respondent herein and prays for appropriate orders.

4 Per contra, Mr.K.Soundararajan, learned standing counsel appearing for the respondents 2 and 3 would submit that there is some difficulty in identification of the land in possession of the respondents 4 and 5 and though necessary clarification has been sought for from the Collectorate of Tiruvallur District - 1st respondent herein, their response is awaited.

5 Mr.M.Digvijaya Pandian, learned Additional Government Pleader appearing for the 1st respondent would submit that if necessary communication is sent by the 3rd respondent to the 1st respondent, all help will be provided to take up the follow up action of the order dated 01.06.2017 made in WP.No.12642/2017.

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

7 This Court, while dismissing WP.No.12642/2017 filed by the 5th respondent, has taken note of the averments made in the counter affidavit and dismissed the writ petition. Therefore, it is obligatory on the part of the respondents 2 and 3 to remove the encroachment caused by the 5th respondent who is said to have settled the said land in favour of her husband, viz., the 4th respondent by following due process of law as expeditiously possible.

8 In the light stand taken by the learned standing counsel appearing for the respondents 2 and 3, liberty is granted to the 3rd respondent to send necessary communication seeking clarification of certain portion of land in possession of the respondents 4 and 5 within a period of four weeks from the date of receipt of a copy of this order and upon receipt of the same, the 1st respondent through the revenue officials is directed to cause inspection of the land in question, after putting the petitioner as well as the respondents 4 and 5 on notice and depending upon the result of the same, shall send necessary communication to the 3rd respondent within a further period of three weeks thereafter. The 3rd respondent, upon receipt of the response from the 1st respondent office, shall take immediate and appropriate action in accordance with law to remove the encroachments said to have been made by the respondents 4 and 5 on the OSR Land in question within a further period of six weeks thereafter and communicate the decision taken, to the petitioner as well as the respondents 4 and 5 herein.

8 The writ petition stands disposed of with the above direction. No costs.

सत्यमेव जयते

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

AP
To
1.The District Collector
O/o.The District Collector
Tiruvallur District.

2.The Commissioner
Greater Chennai Corporation
Rippon Building
Chennai 600 003.

3.The Zonal Officer
Greater Chennai Corporation
Zone-7, MTH Road, Ambattur
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+1 cc to Mr.R.Amardeep Advocate sr 90653
+1 cc to Mr.K.Soundarajan Advocate sr 90740
+1 cc to the Government Pleader sr 90582

WP No.33134/2017

aa09/01/2018



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