

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.26812/2017

B.Vanishree

...

Petitioner

Vs

1 The Collector
Tiruvallur, Tiruvallur District.

2 The Commissioner
Avadi Municipality, Avadi,
Chennai-57.

3 Govindan

4 R.Malliga @ Muthammal ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance a Writ of certiorarified mandamus calling for the records of the 2nd respondent in Ref.No.Na.Ka.No.3631/2013/F1 dated 24.06.2013 and quash the same, directing the respondents to consider the petitioner's representation and to take necessary action by way of demolition of the illegal construction of the hut in the Northern side of petitioner land and building leading to petitioner premises at No.218, Mullai Nagar, Sitheri Karai, Thandari, Pattabiram, Chennai-72 under the provisions of the Tamil Nadu District Municipalities Act, 1920.

For Petitioner : Mr.V.K.Sathiamurthy

For R1 : Mrs.M.E.Rani Selvam, AGP

For R2 : Mr.P.Srinivas

ORDER

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

By consent, the writ petition itself is taken up for final disposal. Mrs.M.E.Rani Selvam, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Mr.P.Srinivas, learned Standing Counsel accepts notice on behalf of the 2nd respondent.

2 The petitioner claims that she had purchased a plot bearing No.218, admeasuring to an extent of 2400 sq.ft., through a registered document bearing No.224/2010 dated 18.01.2010 registered on the file of the Sub Registrar, Avadi. She further claims that she had also been issued with a patta from the Headquarters Tahsildar, Poonamallee Circle, Tiruvallur District. The petitioner would further state that she had also put up a construction consisting of Ground Floor and First Floor on the land purchased by her and the said superstructure is also subjected to statutory levies. The petitioner would state that there is a 30 feet common road on the Northern side which is a public road and it is leading to her house and right on the public road, the 4th respondent - Malliga @ Muthammal, ha put up a semi permanent construction and also put up a thatched roof over it, obstructing the public way and in this regard, the petitioner has submitted her representations / complaints dated 09.04.2012 and 30.04.2012 to the concerned officials and since it had failed to invoke any kind of response, she filed WP.No.25937/2012 before this Court and the Hon'ble First Bench of this Court vide order dated 24.09.2012, had granted liberty to the petitioner to pursue her representations before the Commissioner, Avadi Municipality, and who in turn, shall consider the said representations and dispose of the same in accordance with law wihtin the stipulated time frame, after giving opportunity of hearing to the private respondents therein.

3 Mr.V.K.Sathiamurthy, learned counsel for the petitioner would submit that in compliance of the said order, the 2nd respondent has sent a communication dated 24.06.2013 to the petitioner, stating among other things that the encroachment has been made on the private patta land as well as on the Eri Poramboke land, which belong to the Government and as such, they cannot take any action. The petitioner has also approached the Tahsildar, Poonamallee and vide communication dated 22.01.2014, addressed to the 1st respondent, the said official had informed the petitioner that she herself is guilty of encroaching upon the public land and putting up a construction. The learned counsel for the petitioner, on instructions, would submit that the encroachment said to have been made by the petitioner on the

public land has been removed and however, the encroachment made by the private respondents still remain intact and though, it has been brought to the knowledge of the concerned officials, no action has been taken so far and therefore, the petitioner is constrained to approach this Court by filing the present writ petition.

4 The Court heard the submissions of Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing for the 1st respondent and Mr.P.Srinivas, learned Standing counsel appearing for the 2nd respondent and also perused the materials placed before it.

5 Though the petitioner had prayed for a larger relief, this Court in the light of the above facts and circumstances, directs the Tahsildar, Poonamallee, to act on her communication dated 22.01.2014 in Na.Ka.No.6548/2013/M1, addressed to the 1st respondent and after putting the petitioner as well as the respondents 3 and 4 on notice, shall take appropriate action in accordance with law for removal of the encroachment made by the persons concerned on the "Government Eri Poramboke" land the said exercise is to be carried out within a period of ten weeks from the date of receipt of a copy of this order and the orders passed thereon, shall be communicated to the petitioner as well as to the respondents 3 and 4.

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

AP

sd/

ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

To

1 The Collector
Tiruvallur, Tiruvallur District.

2 The Commissioner
Avadi Municipality, Avadi,
Chennai-57.

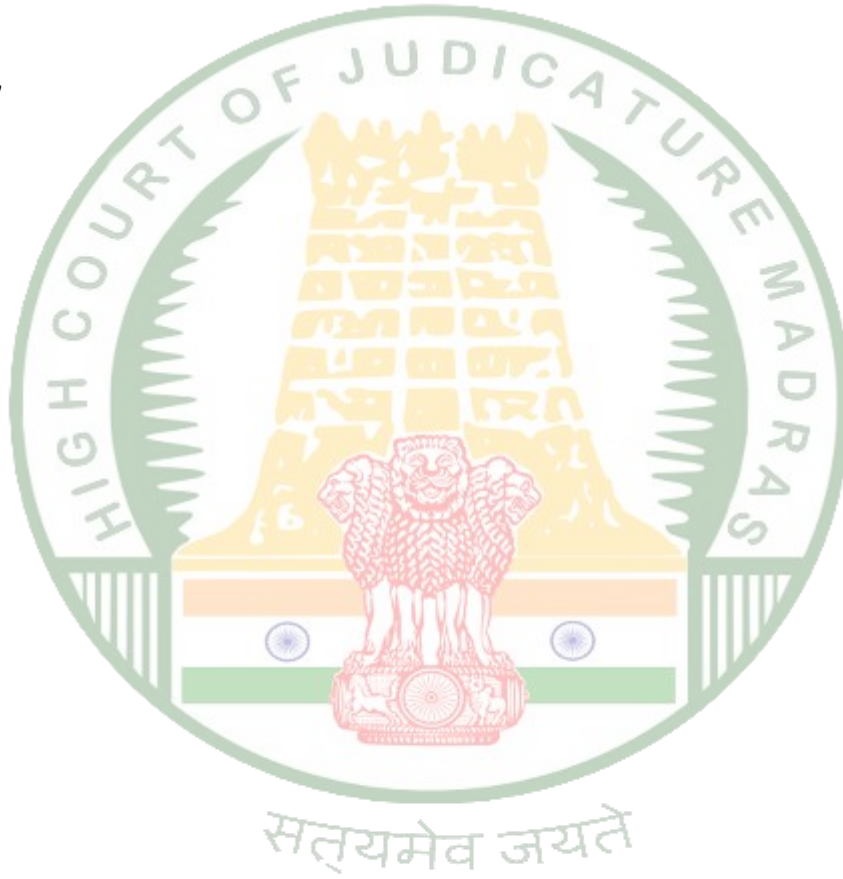
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Copy to:-
The Tahsildar
Poonamallee,
Chennai-600 056.

W.P.No.26812/2017

+1cc to Government Pleader Sr.74726
+2cc to M/S C.Rajan, Advocate Sr.74256

RSI (CO)
rvr
14/12/2017



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