

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2017

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN.
AND
THE HONOURABLE MR.JUSTICE N.SESHASAYEE.

W.P.No.16873 of 2017
and
W.M.P.Nos.18342, 18343 of 2017

S.Velammal

... Petitioner

vs

Regional Deputy Commissioner (South)
Greater Chennai Corporation Zone - XI
No.123, Arcot Road, Valasaravakkam
Chennai - 600 087.

... Respondent

Prayer:- Writ Petition has been filed under Article 226 of Constitution of India to issue a Writ of Certiorari to call for the records in Letter No.Zone-XI/C.No.E2/5035/2016 dated 09.06.2017 on the file of the respondent and quash the same.

For Petitioner : Mr.A.Immanuel

For Respondent : Mr.R.Arunmozhi

O R D E R

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

By consent, the writ petition is taken up for final disposal.

2.It is the case of the petitioner that she has purchased certain extent of land by means of Registered Sale Deed dated 27.05.1987 vide Doc.No.1699 of 1987 registered on the file of Sub Registrar, Virugambakkam, from M/s.Nagi Reddi Charities out of her personal savings and she had put up a house consisting of 1780.7 Sq.ft in Ground Floor and 1042.79 Sq.ft in First Floor without obtaining planning permission and also filed

an application seeking the registration of unauthorised construction and the same is pending before the concerned authority.

3. The grievance expressed by the petitioner is that she was issued Impugned Notice dated 09.06.2017 by the respondent under Section 220 of Chennai Municipal Corporation Act, 1919, to demolish the alleged road side land, which have been encroached by her, to the extent of 269 Square Metre. Therefore, she was called upon to remove the same, within a period of 15 days from the date of receipt of the notice, failing which to take further action.

4. The learned counsel appearing for the petitioner has drawn attention of this Court to the impugned notice under Section 220 of the Chennai Municipal Corporation Act, 1919 . Admittedly, the said notice is bereft of any particulars and would further add that the house of the petitioner is located only in Survey No.82 and she had not encroached upon the public road or pathway and also drawn the attention of this Court to the counter affidavit filed by the respondent and submitted that in paragraph 6 of the counter affidavit, it is stated that as per Tahsildar report, the land in Survey No.80 is classified as "Cart Track" and the petitioner had encroached upon the Government land in the said Survey Number and therefore he prays for interference.

5. Per contra, the learned counsel for the respondents would submit that the petitioner had encroached upon the Government Land in Survey No.80 and as such she is liable to be evicted forthwith and prays for dismissal of this Writ petition.

6. This Court heard the rival submissions made by the learned counsel appearing on either side and also perused the materials available on record.

7. A perusal of the impugned notice issued by the respondent would disclose that the relevant particulars viz., the land in Survey Numbers upon which the petitioner has encroached has not been indicated. The sale deed disclose that she had purchased the plot in Survey No.80 and as per the impugned notice, the encroachment made in respect of the land in Survey number, is not mentioned. Since, the impugned notice is bereft of material particulars, this Court is of the considered view that it warrants interference. The respondent is at liberty to initiate fresh notice containing correct particulars so as to enable the petitioner to submit the response.

9. In the result, this Writ Petition is partly allowed and the impugned notice of the respondent dated 09.06.2017 is

set aside. The respondent is directed to issue fresh notice containing the correct particulars of the encroachment, to the petitioner, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the petitioner is directed to submit a response along with necessary documents. within a period of two weeks thereafter and after receipt of the representation/response, the respondent is directed to consider the same on merits and in accordance with law and pass appropriate orders, within a further period of four weeks and communicate the decision taken to the petitioner and till such time, shall defer the further proceedings as to the removal of the encroachment made by the petitioner. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

arr/rna

To

The Regional Deputy Commissioner (South)
Greater Chennai Corporation Zone - XI
No.123, Arcot Road, Valasaravakkam
Chennai - 600 087.

+1cc to Mr.A.Immanuvel,Advocate sr.51222

+1cc to Mr.R.Arunmozhi,Advocate sr.51428

Writ Petition No.16873 of 2017

ss(18/8/2017)

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