

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.17129/2017 & WMP.No.18601/2017

B.Maheswari

..

Petitioner

Vs

1.The Commissioner

Corporation of Greater Chennai
Ripon Buildings, Park Town
Chennai 600 003.

2.The Regional Deputy Commissioner [South]

Zone XI, Greater Chennai Corporation
Valasaravakkam, Chennai 600 087.

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Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records relating to the impugned three notices in same reference number vide Zone XI/C No.E2/5035/2016 dated 09.06.2017 on the file of the 2nd respondent in respect of the property hearing the premises at No.22A, Sri Devi Kuppam Main Road, Valasaravakkam, Chennai 600087 on the site Grama Natham land comprised in S.No.93, situate at Valasaravakkam admeasuring 600 sq.ft., and quash the same and consequently, forbearing the respondents from initiating proceedings for

removal of alleged encroachment in premises NO.22A, Sri Devi Kuppam Main Road, Valasaravakkam, Chennai 600087.

For Petitioner : Mr.J.R.K.Bhavanantham

For R1 & R2 : Mr.A.Nagarajan

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 respondents.

2 The petitioner claims that she has purchased a Grama Natham site comprised in S.No.93, situate at Valasaravakkam, admeasuring to an extent of 600 sq.ft., by means of an unregistered Sale Deed dated 28.06.1997, executed by one Kandasamy for a valuable consideration. The petitioner further claims that she has also put up Ground Floor, First Floor and Second Floor, bearing Door No.22A, Sri Devi Kuppam Main Road, Chennai-600087 and the said property is also subjected to all statutory levies and she is paying the same promptly. It

is further stated that she has let out for non-residential purpose to one Prabhu, Subha, Hemalatha, Selvam, Thirupathi, Macha Kalai and Venkatachalapathi. The grievance expressed by the petitioner is that all of a sudden, the 2nd respondent has issued the impugned notices dated 09.06.2017 under section 220 read with 222 of the Chennai City Municipal Corporation Act, 1919, to the occupiers, viz., Prabhu, Subha, Hemalatha, Selvam, Thirupathi, Macha Kalai and Venkatachalapathi, stating that they have encroached upon 58.88 sq.m., 75.92 sq.m., 11.22 sq.m., 75.92 sq.m., 50.29 sq.m., 25.12 sq.m., and 25.68 sq.m., respectively and the said encroachments are illegal and it is entitled to be removed and calling upon them to remove the said encroachment within fifteen days from the date of receipt of the notices, failing which, further proceedings would follow and the petitioner, being the owner of the land in question, came forward to file the present writ petition.

3 Mr.J.R.K.Bhavanantham, learned counsel for the petitioner would submit that since the property is classified as Grama Natham, either the Local Body, viz., Valasaravakkam Town Panchayat or the Chennai City Municipal Corporation, is not having any power to evict the petitioner and Prabhu, Subha, Hemalatha, Selvam, Thirupathi, Macha Kalai and Venkatachalapathi, from the said property and would

further add that the superstructure put up thereon on the said landed property is also subjected to statutory levies and as such, the impugned notices are illegal and prays for quashment of the same.

4 *Per contra*, Mr.A.Nagarajan, learned Standing counsel appearing for the respondents 1 and 2 would contend that the area limits of the Corporation of Chennai are expanded and Valasaravakkam Panchayat also comes within the jurisdiction of the Corporation of Chennai and in the light of the judgment reported in **1996 [1] MLJ 187 : 78 LW 458 [R.Appavoo Vs. Corporation of Madras]**, the Chennai City Municipal Corporation is having every right to invoke section 220 read with 222 of the Chennai City Municipal Corporation Act, 1919, to evict the encroachers like the petitioner and the occupiers. It is the further submission that though it is alleged that the land on which the superstructure is located, is classified as Grama Natham, the petitioner has failed to produce any documentary evidence to that effect and the 2nd respondent, will proceed further, strictly in accordance with law and prays for dismissal of the writ petition.

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

6 The petitioner claims right, title and possession in respect of the land through an unregistered Sale Deed and though the learned counsel for the petitioner made an attempt to invite the attention of this Court to the contents of the said document, this Court is not inclined to do so for the reason that it is an unregistered Sale Deed and it compulsorily requires registration. Insofar as the plea put forth by the learned counsel for the petitioner that the land in question is classified as Grama Natham, no documents have been produced in the typed set of documents and however, the learned counsel for the petitioner on instructions would submit that if the representation submitted by the petitioner in response to the impugned notices is considered in proper perspective, the petitioner will produce the documents to substantiate his contention.

7 Though the petitioner prays for a larger relief, this Court, in the light of above facts and circumstances and without going into the merits of the claim projected by the petitioner in this writ petitions, directs the 2nd respondent to consider and dispose of the petitioner's representation dated 24.06.2017 submitted in response to the impugned notices dated 09.06.2017, on merits and in accordance

with law and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner and till such time, shall defer further proceedings in terms of the impugned notices.

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

[M.S.N., J.,]

[N.S.S., J]

06.07.2017

Index : No
Internet : Yes

AP

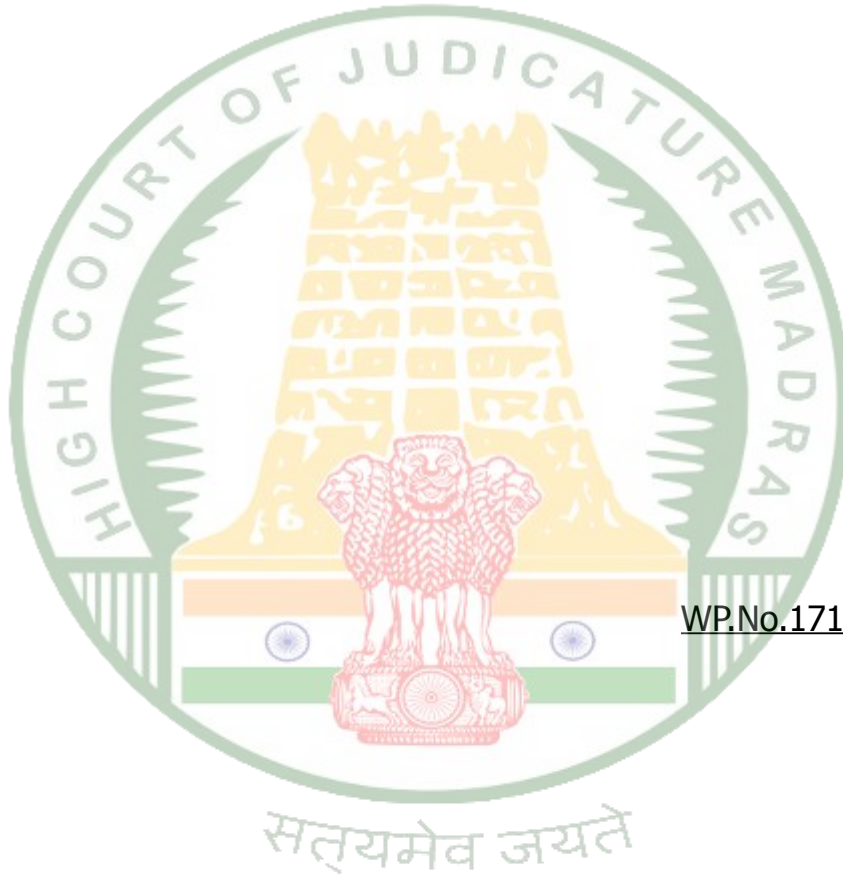
To

1.The Commissioner
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M.SATHYANARAYANAN, J.,
and
N.SESHASAYEE, J.,

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