

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2017

CORAM

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

W.P.No.27986/2017 & WMP.No.30027/2017

V.Chinnusamy

... Petitioner

vs

The Commissioner
Pallavaram Municipality
3rd Main Road,
Pallavaram New Colony
Chromepet, Chennai 600 044.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records relating to the order of the respondent in proceedings No.F4813/2017/F2 dated 14.09.2017 and quash the same.

For Petitioner : Mr.L.Chandrakumar

For Respondent : Mr.P.Srinivas

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.P.Srinivas, learned Standing Counsel accepts notice on behalf of the sole respondent.

2 The petitioner claims that he is the absolute owner of the Plot No.13, bearing Door No.2, First Street, Mummorthy Nagar, Chrompet, Chennai-44, along with one Nallappan, and the said property was purchased by both of them through an unregistered Sale Deed dated 13.12.1990 and after the purchase, the petitioner as well as Nallappan, had put up construction on the said land and it is also assessed to all statutory levies. The petitioner would further aver that one Tmt.Sathiyabama, claiming to be the owner of the landed properties comprised in Survey Nos.524/1, 524/2, 524/3, 524/4, 525 [part], 525/8, 252/9,

525/10 and 525/11, admeasuring to an extent of 2.10 acres in Zamin Pallavaram Village, had lodged a compliant before the Inspector of Police, Pallavaram Police Station, alleging that the petitioner had raised construction over his property and the petitioner was summoned and having found that it is a civil dispute, the Inspector of Police advised the parties to work out their remedy accordingly. Mrs.Sathiyabama, not stopping with that, also filed WP.No.25971/2017 praying for demolition of the unauthorised construction and without acting upon the said writ petition, to the shock and surprise of the petitioner, the respondent has issued the Confirmation Notice dated 14.09.2017 u/s.216[3] read with 196, 197, 199, 208 and 209 of the Tamil Nadu District Municipalities Act, 1919, and challenging the legality of the same, the petitioner came forward to file the present writ petition.

3 Mr.L.Chandrakumar, learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that in the area in question, more than 300 houses of similar nature are there and though the application submitted by the petitioner for issuance of patta, has been kept pending unreasonably for quite long time, admittedly, the petitioner has submitted an application for planning permission to the Chennai Metropolitan Development Authority with regard to the regularisation of the unapproved plots and layouts and vide registration slip bearing CMDA/P/0007988/2017, the said application was acknowledged on 28.10.2017 and pendency of the application, it is not open to the respondent to demolish the superstructure in which the petitioner along with his family are residing and hence, prays for appropriate orders.

4 Per contra, Mr.P.Srinivas, learned Standing counsel appearing for the sole respondent has invited the attention of this Court to the typed set of documents and would submit that the petitioner claims right, title and possession in respect of the land in question through an unreasonable Sale Deed and it would not amount to any right and also further drawn the attention of this Court to page No.30 of the typed set of documents and would submit that though the application for regularisation of unapproved plots is pending on the file of CMDA, the petitioner has proceeded with the construction and continues to indulge in illegality and he is not entitled to any indulgence from this Court and prays for dismissal of this writ petition.

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

6 The petitioner claims title in respect of the land in

question through an unregistered Sale Deed and also approached CMDA for regularisation of the unapproved layout and it has also been acknowledged by the said authority on 28.10.2017 and according to the learned counsel for the petitioner, the said application is under process. A perusal of the photograph would disclose that construction has come to the first floor level and pending application for regularisation of the unapproved plots, it is not open to the petitioner to put up the construction without any planning permission or approval. Be that as it may, since the application submitted by the petitioner for registration of unapproved plots and layouts is pending, this Court is of the view that till the consideration and passing of orders on the said application, the existing state of the superstructure being put up by the petitioner without planning permission, as per the photographs available in page No.30 of the typed set of documents, shall be maintained.

7 Accordingly, the respondent as well as the petitioner shall maintain status quo with regard to the superstructure being put up by the petitioner as per the photographs available in page No.30 [Xerox copy of which is annexed along with this order] of the typed set of documents, till the disposal of the application seeking registration for the unapproved plot/layout. It is made clear that the petitioner shall not create any third party rights in respect of the land and superstructure in question till the disposal of the application for regularisation of the unapproved layout by CMDA.

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

Xerox Copy of Annexure-Photograph Attached.

Sd/-
Assistant Registrar (CS VI)

// True Copy//

WEB COPY
Sub Assistant Registrar

AP

To

The Commissioner
Pallavaram Municipality
3rd Main Road,
Pallavaram New Colony
Chromepet, Chennai 600 044.

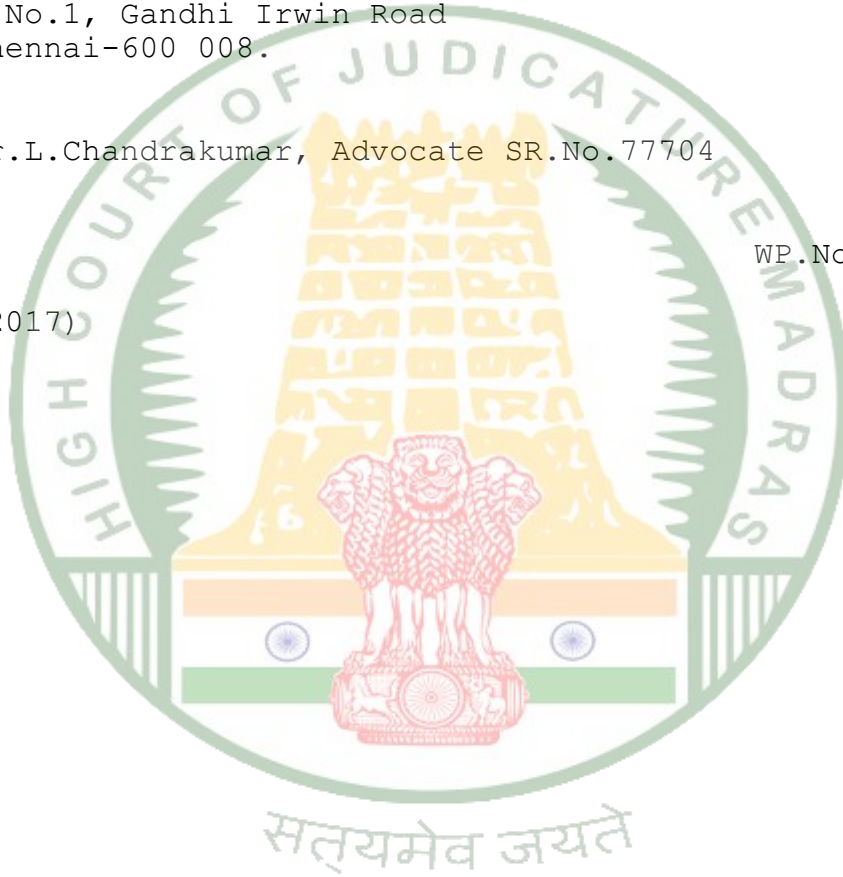
Copy to:-

The Member Secretary
Chennai Metropolitan Development
Authority, Thaalamuthu Natarajar
Maaligai, No.1, Gandhi Irwin Road
Egmore, Chennai-600 008.

+1cc to Mr.L.Chandrakumar, Advocate SR.No.77704

WP.No.27986/2017

SR(CO)
GN(23/11/2017)



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