

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.11.2017

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.28875 of 2017 and W.M.P.No.31089 of 2017

S.Charles

.. Petitioner

Versus

1. Pallavaram Municipality,  
rep.by its Commissioner,  
Chrompet, Chennai-600 044.

2. Mr.Dinesh Kumar.

... Respondents

PRAYER:- Writ petitions filed under Article 226 of the Constitution of India prays to issue a Writ of mandamus directing the 1<sup>st</sup> respondent to take appropriate action to prevent the 2<sup>nd</sup> respondent from constructing unauthorizedly and illegally without approval the 2<sup>nd</sup> floor in the building situated at Door No.89/22, Survey No.63 and 64, Pammal Main Road, Pallaaram Village, Alandur Taluk, Kancheepuram District.

For Petitioner :Mr.G.Vijayanand

For Respondents :Mr.P.Srinivas for R1

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 1<sup>st</sup> respondent.

2 The petitioner would aver that the 2<sup>nd</sup> respondent is the owner of the property bearing Door No.89/22, Survey Nos.63

and 64, Pammal Main Road, Pallaaram village, Alandur Taluk, Kancheepuram District, admeasuring to an extent of 10,747 sq.ft. The petitioner would further state that the 2<sup>nd</sup> respondent in the year 2014, has contacted the petitioner to put up a construction of a superstructure consisting of Ground + First Floors, of commercial building in the said Survey number and the petitioner has also completed 90% of the construction work as early as on December 2016 and however, a dispute / difference of opinion arose between them and before completing the construction, the possession of the superstructure has been forcefully taken along with the petitioner's available materials worth about Rs.20,00,000/-.

3. The petitioner, in this regard, has filed a petition under Section 156 (3) Cr.P.C. before the Court of Judicial Magistrate, Tambaram praying for registration of the First Information Report against the 2<sup>nd</sup> respondent and same is pending. The petitioner now came forward to file this writ petition, alleging that the 2<sup>nd</sup> respondent is attempting to put up the construction without any sanctioned / approved plan and in this regard, a representation dated 03.07.2017 was submitted by the petitioner to the 1<sup>st</sup> respondent by Registered Post Acknowledgment Due [RPAD] on the same date and despite the receipt and acknowledgment, no orders have been passed and hence, the petitioner came forward to file this writ petition.

4. Per contra, Mr.P.Srinivas, learned Standing counsel appearing for 1<sup>st</sup> respondent would submit that admittedly there is dispute / difference of opinion between the petitioner and the 2<sup>nd</sup> respondent with regard to the encroachment of the petitioner and alleged forceful possession of the premises which was constructed by the petitioner and as such, the remedy open to the petitioner is to invoke the common law remedy and prays for dismissal of this writ petition.

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

6. Though the petitioner prays for a larger relief and without going into the merits of the claim projected by the petitioner either in his representation or in this writ petition, directs the 1<sup>st</sup> respondent to put the petitioner as well as the 2<sup>nd</sup> respondent on notice and thereafter cause inspection of the premises in question and depending upon the result of the same, shall proceed further in accordance with law within a period of eight weeks from the date of receipt of a

copy of this order and communicate the decision taken to the petitioner as well as to the 2<sup>nd</sup> respondent.

7. The writ petition stands disposed of with the above direction. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

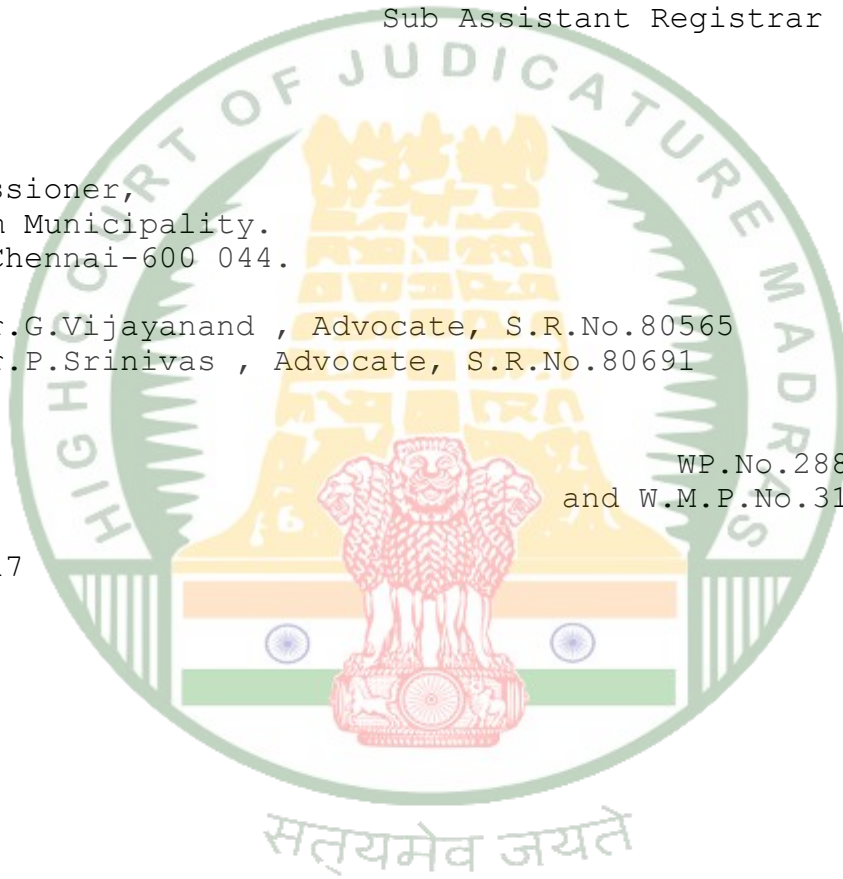
The Commissioner,  
Pallavaram Municipality.  
Chrompet, Chennai-600 044.

+1cc to Mr.G.Vijayanand , Advocate, S.R.No.80565

+1cc to Mr.P.Srinivas , Advocate, S.R.No.80691

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