

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

W.P.No.28928 of 2017

Subba Reddy Charities rep.

by Managing Trustee,

A.J.Yuvaraj Reddy,

12A/1 1st street, 1st main road,

NATESA nagar Vrugambakkam,

Chennai-600 092.

Petitioner

Vs

1.Member Secretary,

Chennai Metropolitan Development Authority,

Egmore, Chennai-600 008.

2.The Commissioner,

Corporation of Chennai,

Chennai-600 003.

3.The Assistant Commissioners,

Corporation of Chennai,

Zone 12 Alandur,

Chennai-600 016.

4.The Executive Engineer,

Zone X11 Corporation of Chennai,

Alandur, Chennai-600 016.

5.ARO Zone 12,

Choultry 89/50, MKN Road,

Alandur, Chennai-600 016.

6.The Assistant Commissioners,

Commercial Tax Office,

Alandur Circle,

Chennai-600 016.

7.K.Joseph

8.R.Rajagopal (Trespasser)

9.R.Sundaresan

10.S.Balajee
11.Julie Sangeetha
12.Mukesh Arokya Raj
13.A.Sankarnarayan
14.ATP Venkatachalapathy

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus, direct the 1st respondent to submit plan illegally claimed as sanctioned hence restore the choultry to its original status and demolish the 1st and 2nd floor illegally constructed and settled to son and daughter as demanded in notice No.623/2015 dated 13.10.2015 and also was pronounced as infructuous in order dated 07.09.2016 in WP.No.28511/2015 hence to demolish.

For Petitioner : Mr.A.J.Yuvaraj Reddy
Party-in-person

For Respondents : Mr.A.Kumar for R1
Mr.K.Soundararajan for R2 to R5
Mr.S.Kanmani Annamalai
AGP(Taxes) for R6

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.A.Kumar, learned Standing counsel accepts notice on behalf of the 1st respondent ; Mr.K.Soundararajan, learned Standing counsel accepts notice on behalf of the respondents 2 to 5 and Mr.S.Kanmani Annamalai, learned Special Government Pleader [Taxes] accepts notice on behalf of the 6th respondent.

2 The petitioner is said to be the Managing Trustee of Subba Reddy Charities and came forward to file this writ petition alleging that the above said Trust, in utter violation of the terms of the Trust and without taking note of the purpose, had sold the valuable land and property admeasuring to an extent of 2350 sq.ft along with superstructure measuring 500 sq.ft in Survey No.87-B in T.S.NO.16, Block No.22, bearing Door No.50 in M.K.N.Road, Velacherry Village, Mambalam-Guindy Taluk, Chengalpattu District, for a sale consideration of Rs.68,950/- in favour of the 7th respondent who took advantage of the misunderstanding on the part of some of the Trustees of the said Trust, had started putting up superstructure and completed the same without any planning permission or authorization whatsoever

and was also bold enough to run an Institution under the name and style of Tamil Nadu I.T.I. and despite very many representations submitted in that regard, he failed to invoke any kind of response and at last, the 4th respondent has issued the notice dated 19.10.2015 to the 2nd respondent calling upon him to restore the building in its original condition within 30 days from the date of receipt of this notice, failing which action will be taken under Sections 26 and 27 of the Tamil Nadu Town and Country Planning Act and though two years had lapsed from the date of the said notice, no further action has been taken place. Therefore, he has constrained to approach this Court by filing this writ petition.

3 The petitioner / party-in-person has invited the attention of this Court to the voluminous typed set of documents and would submit that the sale by the Trust in favour of the 7th respondent on 26.03.1990 is invalid in the eye of law and would further urge that the unauthorised constructions have also come up on the said land and despite the said illegality have been brought to the knowledge of the concerned officials, no response is forthcoming and prays for appropriate order.

4 This Court heard the submission of learned standing counsel appearing for the 1st respondent ; learned standing counsel appearing for the respondents 2 to 5, who would submit that rightly or wrongly, the Sale Deed came into being in favour of the 7th respondent as early as on 26.03.1990 and it is yet to be challenged in the manner known to law. Insofar as, the lock and seal notice dated 19.10.2015 bearing notice No.623/2015 is concerned, further action will be taken strictly in accordance with law after putting the 7th respondent on notice.

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

6 It is the primordial submission of the petitioner/party-in-person that the land belonging to the Trust has been sold illegally by some of the Trustees of the said Trust through the registered Sale Deed dated 26.03.1990. In the considered opinion of this Court, the challenge made to the said sale cannot be adjudicated in the said petition as the remedy open to the petitioner if any, is to challenge the same in some other Forum. Insofar as the grievances expressed that the unauthorised construction came into being and land owned by the 7th respondent, this Court directs the 4th respondent to put the petitioner as well as the 7th respondent on notice and thereafter proceed further in terms of their lock and seal notice dated 19.10.2015 bearing notice No.623/2015 and take action 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 to the petitioner as well as the 7th respondent herein.

7 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

sk

To

1.The Executive Engineer,
Zone X11 Corporation of Chennai,
Alandur, Chennai-600 016.

2.The Assistant Commissioners,
Commercial Tax Office,
Alandur Circle,
Chennai-600 016.

+ 1 cc to Mr.A.J.Yuvaraj Reddy Advocate,SR.80392

+ 1 cc to Mr.K.Soundararajan Advocate,SR.80468

WP.No.28928/2017

RR(CO)
NR 18/12/2017

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