

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.12.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

WP.No.13227/2006

S.Kannan

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Petitioner

Versus

1.The Commissioner
Corporation of Chennai
Ripon Buildings
Chennai 600 003.

2.The Zonal Officer
Corporation of Chennai
Zone-VI, Dr.Besant Road
Ice House, Chennai 600 014.

3.The Assistant Revenue Officer
Corporation of Chennai
Zone-VI, Dr.Besant Road
Ice House, Chennai 600 014.

4.Prince of Arcot Endowments
Ameer Mahal, Pycrofts Road
Chennai 600 014.

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Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for a writ of mandamus calling upon the respondents 1, 2 and 3 herein to cancel the assessment to property tax made by the 3rd respondent in favour of the 4th respondent in respect of the illegal construction put up by the 4th respondent in the passage running North to South from Dr.Besant Road, Ice House, Royapettah, Chennai 600 014 and leading to Vasantha Mansion at No.30, Dr.Besant Road, Ice House, Royapettah, Chennai 600 014, allotted door No.34/1, Dr.Besant Road, Royapettah, Chennai 600 014.

For Petitioner : Mr.R.W.A.Ghyazamed
For RR 1 to 3 : Mr.A.Nagarajan
For R4 : No Appearance

ORDER

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

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

2 The petitioner claims that he is running a Mansion under the name and style of "Vasantha Mansion" in Door No.30, Dr.Besant Road, Ice House, Royapettah, Chennai-600 014. It was originally belonged to his father [late] Mr.Shanmugam and after his demise, the petitioner succeeded to the said estate along with his brothers and sisters. The petitioner also claims to be a Member of the "Mansion Owners Association" at Chennai. The grievance expressed by the petitioner is that to have access to the said Mansion, one has to go through the lane which runs from North to South from Dr.Besant Road and right from the year 1972 onwards, the ingress and egress to the Mansion of the petitioner and the occupants of the Door Nos.29 to 33 is through the said lane only. However, on 13.10.2004, some of the employees of the 4th respondent had demolished the old Dargah which was in existence and started putting up construction in such a manner, it blocked the access through the lane for the occupants of the Mansion and residents of the aforesaid premises. The petitioner, in this regard, had filed a suit in OS.No.5539/2004 on the file of the Court of XVII Assistant Judge, City Civil Court, Chennai, against the 4th respondent herein as well as the officials of the Corporation of Chennai, praying for a declaration that they are entitled to use the pathway and also for permanent injunction restraining the defendants from interfering with the usage of pathway in any manner and also for consequential reliefs and pendency of the suit, has also filed IA.No.18503/2004 and the said suit was disposed of on 01.12.2011.

3 The petitioner also came to note that during first week of March 2006, the 4th respondent has applied to the Electricity Board authorities for getting electricity connection for the unauthorised / illegal structure and in this regard, he has also filed WP.No.8840/2006 before this Court and it was admitted on 29.03.2006 and also filed WPMP.No.9774/2006 and the said writ petition was disposed of on 02.02.2011. The petitioner, on becoming aware of the fact that the unauthorised / illegal structure put up by the 4th respondent is also assessed to property tax, came forward to file the present writ petition.

4 Originally, notice of motion was ordered on 05.05.2006 and it was listed before the Division Bench and was admitted on

18.09.2006. The matter was listed before this Court on 31.10.2017 and having found that despite the subsistence of the interim order passed, for very many years, no steps have been taken to file counter and also the delay in filing the counter as put the officials of the Corporation of Chennai on terms and it was also complied with.

5 In pursuant to the order dated 31.10.2017, the 3rd respondent has filed a counter affidavit, wherein he took a stand that the Corporation has not assessed the said property to property tax and originally the property tax was assessed in the name of Ajaz Ahamad and from the second half of the year 2005-2006 to the first half of the year 2012-2013, he was paying the property tax and based on the Sale Deed dated 22.03.2003, the property tax assessment was transferred in the name of one Mr/M.Ansar Basha and presently, the property tax assessment stands in his name. The Assistant Revenue Officer, Zone-IX, Corporation of Chennai, also took a stand that merely based on the property tax assessment, one cannot claim any right over the property of an unauthorised / illegal construction and encroachment of the land.

6 This Court has also put a specific question to him as to whether the construction in which "Vasantha Mansion" is being run, is authorised or not and the learned counsel for the petitioner prayed for time to get instructions.

7 The learned Standing counsel appearing for the Corporation of Chennai also seeks time to get instructions as to the construction put up by the 4th respondent is authorised one or not.

8 In the light of the above facts and circumstances, especially, the stand taken by the Assistant Revenue Officer, Zone-IX, Greater Corporation of Chennai, in paragraph NO.8 of the counter affidavit, that the assessment of property tax would not enure the concerned person any right in the event of unauthorised / illegal construction / encroachment is noted, this Court is disposing of the writ petition with a direction, directing the 3rd respondent to cause inspection of the premises in question owned by the petitioner, bearing Door NO.30, Dr.Besant Road, Ice House, Chennai-14, as well as the premises of Mr.Ansar Basha, to find out as to whether any unauthorised / illegal / deviated construction is made and file a Status Report in that regard.

9 The writ petition stands disposed of with the above direction. No costs.

10 List the writ petition on 23.01.2018 for filing Status Report.

Sd/-
Assistant Registrar (CS IV)

//True copy//

Sub Assistant Registrar

AP

To

- 1.The Commissioner
Corporation of Chennai
Ripon Buildings
Chennai 600 003.
- 2.The Zonal Officer
Corporation of Chennai
Zone-Vi, Dr.Besant Road
Ice House, Chennai 600 014.
- 3.The Assistant Revenue Officer
Corporation of Chennai
Zone-Vi, Dr.Besant Road
Ice House, Chennai 600 014.
- 4.The Assistant Revenue Officer,
Corporation of Chennai,
Zone-IX, Greater Chennai Corporation,
No.1, 4th Cross Street, Lake view Road,
Chennai 600 034.

Copy to:-

The Section Officer
Writ Section, High Court
Chennai.

(list on 23/01/2018)

+2cc to Mr.Menon and Goklaney Association, Advocate SR.No.86249

WP.No.13227/2006

SSI (CO)
GN(13/12/2017)