

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2017

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.42929 of 2016

G.Varadharajan

... Petitioner

Vs

1. The Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai-9.
2. The Regional Joint Commissioner
Regional Office (South)
Corporation of Chennai
Zone 13, Adyar,
Chennai-20.
3. The Zonal Officer
Zone 13, Corporation of Chennai
Adyar, Chennai-20.
4. The Executive Engineer
Enforcement Cell
(Office of the Regional Joint Commissioner) (South)
Corporation of Chennai Chennai-20.
5. Sakunthala
6. M.Somu

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified Mandamus calling for the records of the 1st respondent with respect to the letter dated 9.2.2016 (Letter No.22374/ UD-VI(1)/ 2015-4) and quash the same and consequently direct the 4th respondent to remove the illegal construction put up by 5th and 6th respondents on the 30 feet wide public Road opposite to Survey Numbers 4/100 and 4/21 in the 4th Street, Narasingapuram, Maduvangarai, Chennai-32.

For Petitioner

: Mr.V.Veluchamy

For Respondents

: Mr.T.N.Rajagopalan
Special Government Pleader
for 1st respondent

Mr.V.C.Selvasekaran
for respondents 2 to 4

Mrs.G.Devi
for 5th respondent

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The challenge laid is to the order passed by the first respondent dated 9.2.2016. The order is more or less predicated on a single fact, i.e., the pendency of civil dispute regarding ownership of the land. This reason is factually incorrect as the suit filed was for claiming rights on account of adverse possession and not title of the land and that suit has been rightly withdrawn today by the fifth respondent, as no suit would lie to claim title on adverse possession as it is only a plea of defence, as held by the Hon'ble Supreme Court in Gurdwara Sahib v. Gram Panchayat Village Sirthala and another, (2014) 1 SCC 669.

2. The result is that the impugned order is liable to be set aside and the matter remitted to the first respondent to decide it in accordance with law. The fresh order be passed within a maximum period of three months from today.

The petition, accordingly, stands disposed of. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To:

1. The Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai-9.

2. The Regional Joint Commissioner
Regional Office (South)
Corporation of Chennai
Zone 13, Adyar, Chennai-20.
3. The Zonal Officer
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Corporation of Chennai, Chennai-20.

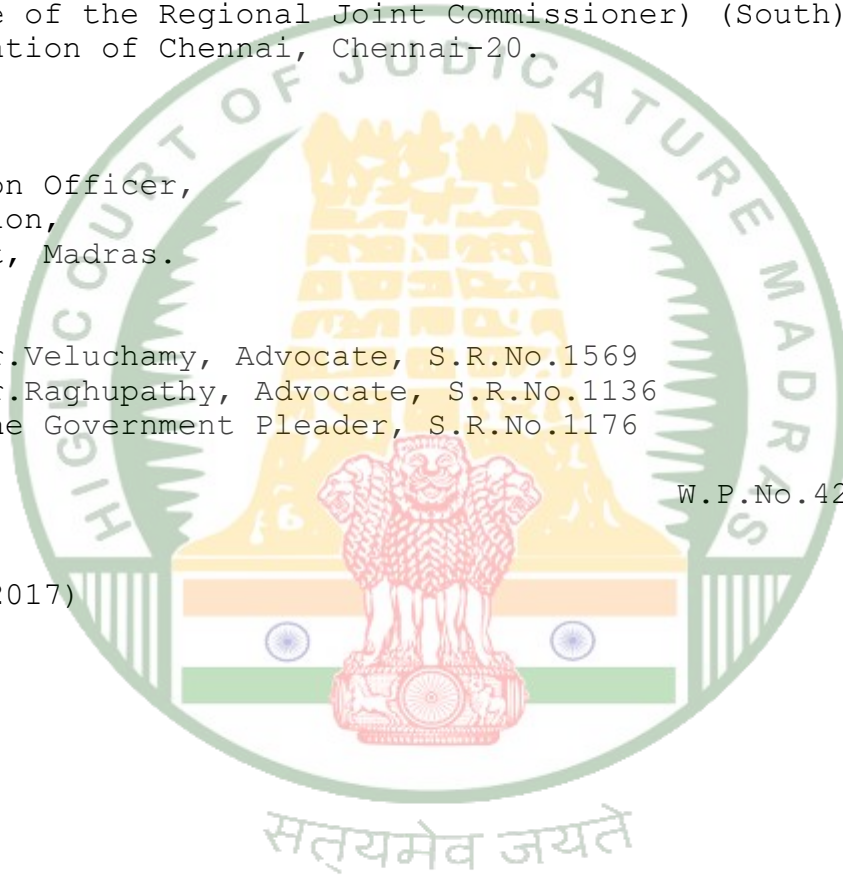
Copy To

The Section Officer,
Writ Section,
High Court, Madras.

+1cc to Mr.Veluchamy, Advocate, S.R.No.1569
+1cc to Mr.Raghupathy, Advocate, S.R.No.1136
+1cc to the Government Pleader, S.R.No.1176

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MG(CO)
CA(12/01/2017)



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