

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2017

CORAM

THE HON'BLE Mr. JUSTICE M. DHANDAPANI

W.P.No.29692 of 2004

S.Radhika

... Petitioner

..vs..

1. Commissioner,
Corporation of Chennai,
Chennai 3.

2. Tahsildar, Fort-Tondiarpet Taluk,
Chennai.

.... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the first Respondent in Z.O.I.C.No.B2/1942/2003 dated 13.1.2004 and quash the same, and direct the Respondents to identify the petitioner's land in Old Survey No.6/3 (Re-Survey No.50/5) at Plot No.23 Jambuli Village, Fort Tondiarpet Taluk, Chennai, measuring an extent of 3935 sft with reference to the approved lay-out sanctioned by the first respondent and the patta issued by the second respondent and remove the compound wall erected in the petitioner's land.

For Petitioner : Mr.S.Kamadevan

For Respondents : Mr.V.C.Selvasekaran

O R D E R

This Writ Petition has been filed challenging the order passed by the first Respondent in Z.O.I.C.No.B2/1942/2003 dated 13.1.2004 and to quash the same and direct the Respondents to identify the petitioner's land in Old Survey No.6/3 (Re-Survey No.50/5) at Plot No.23 Jambuli Village, Fort Tondiarpet Taluk, Chennai, measuring an extent of 3935 sft with reference to the approved lay-out sanctioned by the first respondent and the patta issued by the second respondent and remove the compound wall erected in the petitioner's land.

2. The case of the petitioner is that the petitioner purchased a plot in Survey No.6/3 at Jambuli Village, measuring an extent of 3935 sq.ft. on 28.04.1992, under registered Sale Deed and the second respondent also granted

patta in his favour. It is further stated that the first respondent engaged the contractor for erection of compound wall in order to protect the ceremonial place, which is lying adjacent to patta land. It is further stated that since the Petitioner's land was lying vacant, the contractor encroached the petitioner's land to an extent of 1455 Sq.ft. and started to erect the compound wall. In this regard, the petitioner submitted a representation dated 10.04.2001, to the first respondent seeking to remove the compound wall which was erected in the petitioner's land. Since, the same has not evoked any response, the petitioner filed W.P.No.21115 of 2001. This Court, by an order dated 16.09.2003, directed the first respondent to dispose of the representation dated 10.04.2001, after giving an opportunity of hearing to the petitioner and pass appropriate orders, within a period of three months from the date of receipt of the said order. After inspection and enquiry, the first respondent passed the impugned order, dated 13.01.2004, wherein it is stated the since the land which is in dispute belongs to Corporation, the petitioner has no locus standi over the same. Challenging the said order, this Writ Petition has been filed.

3. Heard both sides. Perused the materials on record.

4. In the impugned order, it is stated as follows:

"...Merely by claiming the above land without any authenticated, original & Parent and Link document will not hold water and hence, you have no locus standii for the above land. The land questioned by you did not belongs to you and it belongs to Corporation of Chennai, as public land and it is being used by local people as 16th Day Ceremony Site. Further as per Hon'ble High Court direction of Writ Petition 21115/01 and order dt.16.9.03, your representation has been pursued and it has been disposed..."

4. On perusal of the above facts, there is disputed question of fact in respect of title, when there is disputed question of facts, writ petition under Article 226 of Constitution of India, cannot be dealt with. It is only the Civil Court, that has to decide the question of title.

5. In view of the same, this Writ Petition is dismissed. However, the petitioner is at liberty to work out his remedies in the manner known to law. No costs.

arr

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

To

1. Commissioner,
Corporation of Chennai,
Chennai 3.
2. Tahsildar, Fort-Tondiarpet Taluk,
Chennai.

+1 CC to Mr.S.KAMADEVAN, Advocate Sr.No.60831

W.P.No.29692 of 2004 &
W.M.P. No.36054 of 2004

CO-
MLT 14/11/2017



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