

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 13.07.2018
CORAM:
THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
W.P. No.10053 of 2018 &
W.M.P.No.12011 of 2018

S.Arjunan

.. Petitioner

Vs.

- 1.The District Collector,
Collector Office of Thiruvallur,
Thiruvallur.
 - 2.The Superintending Engineer,
Public Works Department,
Buildings (Construction and
Maintenance) Circle,
Chepauk, Chennai - 05.
 - 3.The Superintending Engineer,
Public Works Department,
Buildings (Construction and
Maintenance) Circle,
Thiruvallur.
 - 4.The Assistant Engineer,
Public Works Department,
Buildings (Construction and
Maintenance) Circle,
Ambattur, Chennai.
 - 5.The Ambattur Municipality,
Rep. by its Commissioner,
M.T.H.Road, Ambattur, Chennai.
 - 6.R.B.Guhan,
 - 7.The Tahsildar,
Ambattur.
(7th Respondent Suo motu impleaded as per
order dated 25.04.2018 in W.P.No.10053 of 2018)
 8. The Zonal Officer,
Zone 7, Corporation of Chennai,
Chennai.
- .. Respondents

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(8th Respondent is Suo motu impleaded
as per order of this Court dated 13.07.2018)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to forbear the respondents dispossessing and evicting the petitioner and his family from in any manner from the property situated at Door No.48 and its parts, Muniswaran Street, Kalaivanar Nagar, Padi, Chennai - 600 050 comprised at T.S.No.214 and O.S.No.253/2 part having an extent of 34 Sq.mt (370 Sq.feet) and classified as Grama Natham as per TSLR extract No.7781 of 2003 and its structures and building raised thereon and further direct the respondents to observe due procedure.

For Petitioner : Mr.P.G.Thiyagu
For M/s.T.K.S.Gandhi

For Respondents : Mr.V.Shanmuga Sundar
Special Government Pleader for R1 to R4, R7
Mr.T.C.Gopalakrishnan
Standing Counsel for R5 & R8
Mr.M.L.Ramesh for R6

O R D E R

It is represented that the Ambattur Municipality has now been merged with Chennai Corporation. Hence, The Zonal Officer, Zone 7, Corporation of Chennai is suo motu impleaded as eighth respondent.

2. Heard Mr.P.G.Thiyagu, learned counsel, representing Mr.T.K.S.Gandhi, learned counsel for the petitioner; Mr.V.Shanmuga Sundar, learned Special Government Pleader for the respondents 1 to 4, 7; Mr.T.C.Gopalakrishnan, learned Standing Counsel for the respondents 5 & 8; Mr.M.L.Ramesh, learned counsel for the sixth respondent and perused the materials available on record.

3. This Writ Petition has been filed for issuance of Writ of Mandamus forbearing the respondents in dispossessing and evicting the petitioner and his family from in any manner from the property situated at Door No.48, and its parts, Muniswaran Street, Kalaivanar Nagar, Padi, Chennai comprised in Survey T.S.No.214 measuring an extent of 370 sq.ft.

4. According to the petitioner, he has been in possession of the property in T.S.No.214 measuring an extent of 370 sq.ft. and he has been issued with a patta. The grievance of the petitioner is that at the instigation of the sixth respondent, the Official respondents are attempting to interfere with his peaceful

possession and enjoyment of the land.

5. When the above Writ Petition was taken up for hearing on 25.04.2018, it was argued by the learned Standing Counsel for the respondents that a request has been made to the Tahsildar, Ambattur to measure the property and to conduct survey in that area. In view of the above submission, the Tahsildar, Ambattur was impleaded as 7th respondent and time was granted to submit his report. The report of Tahsildar, dated 07.06.2018 reveals that the petitioner has constructed small building measuring 32.00 sq.metre in T.S.No.215, which has been classified as Grama Natham Street.

6. The learned Standing Counsel for the respondents, by referring the counter filed by the eighth respondent submitted that the petitioner is in possession of T.S.No.214, which is classified as Grama Natham and the respondent-Corporation has a proposal to construct bridge in T.S.No.215 and hence the respondents did not interfere with the possession of the petitioner's property in T.S.No.214 and the encroachment of the petitioner in T.S.No.215 to an extent of 32.00 sq.metre has to be removed to complete the construction of over bridge connecting Krishna Street and Muniswaran Street so as to fulfil the genuine demand of the local public.

7. The learned counsel for the sixth respondent submitted that the sixth respondent is residing about 2 kms away from the area in question, hence he has no personal interest in this case. It is further stated that he had initiated action for construction of the bridge in the interest of the public at large when he was a Councillor, but he has been unnecessarily added as a party and allegations have been levelled against him without any basis.

8. After seeing the report of the Tahsildar and the counter affidavit of the Zonal Officer, Zone-7, when this Court was not inclined to pass an order in respect of T.S.No.215, the learned counsel for the petitioner on instructions from the petitioner's son, who is present before this Court submitted that part of the land in T.S.No.215 has been in possession and enjoyment of the petitioner for long number of years and he is ready to vacate the area under his occupation, provided, he is granted three months. Time is sought for filing an affidavit of undertaking.

9. In view of the above submission, this Writ Petition is closed. It is made clear that the petitioner shall remove the encroachment in T.S.No.215 and hand over possession to the respondents on or before 12th October 2018, as per his undertaking. No costs. Consequently, connected miscellaneous petition is closed.

10. Post the matter on 20.07.2018, for filing an affidavit of undertaking.

13.07.2018 rns

As directed by this Court on 13.07.2018, the petitioner has filed an affidavit of undertaking, dated 16.07.2018 and the same is recorded. As per the earlier order of this Court dated 13.07.2018, the petitioner shall remove the encroachment in T.S.No.215 and hand over the possession to the respondent-Corporation on or before 12.10.2018.

Post on 22.10.2018 for reporting compliance.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Collector Office of Thiruvallur,
Thiruvallur.

2.The Superintending Engineer,
Public Works Department,
Buildings (Construction and
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Ambattur, Chennai.

5.The Ambattur Municipality,
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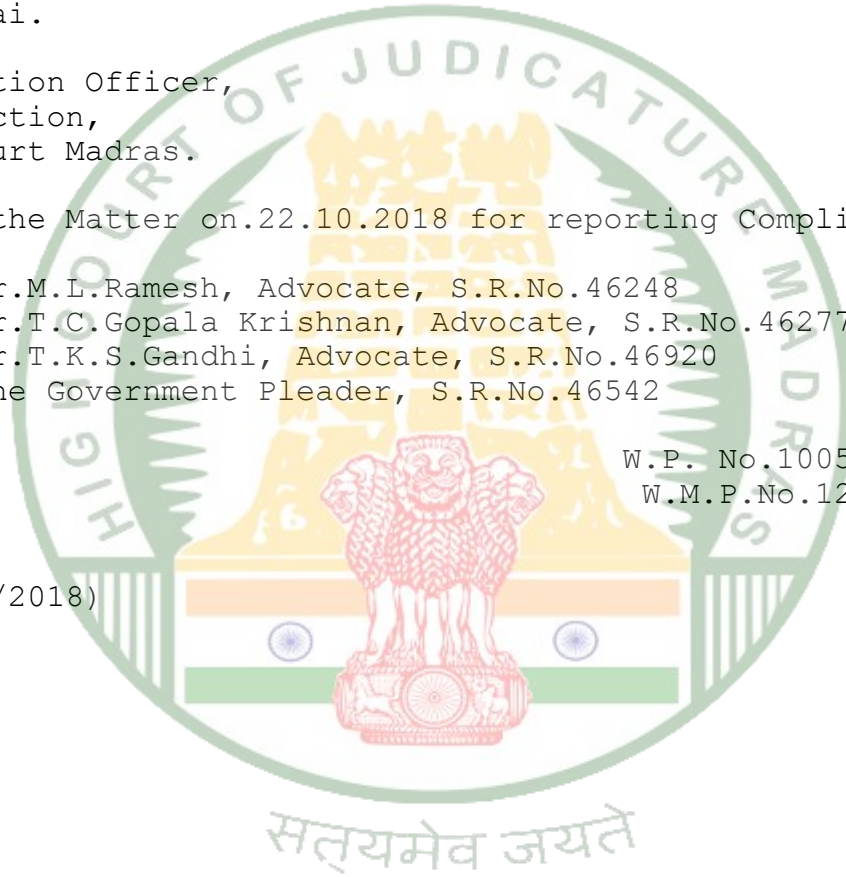
8.The Section Officer,
Writ Section,
High Court Madras.

(To post the Matter on.22.10.2018 for reporting Compliance)

+1cc to Mr.M.L.Ramesh, Advocate, S.R.No.46248
+2cc to Mr.T.C.Gopala Krishnan, Advocate, S.R.No.46277
+1cc to Mr.T.K.S.Gandhi, Advocate, S.R.No.46920
+1cc to the Government Pleader, S.R.No.46542

W.P. No.10053 of 2018 &
W.M.P.No.12011 of 2018

SKV(CO)
GSP(06/08/2018)



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