

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM
W.P.No.3138/2018 and WMP No.3854 of 2018

C.Arjunan

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Petitioner

Vs

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai.
2. Assistant Commissioner, (Zone X),
Greater Chennai Corporation - Zonal Office - X,
No.117, N.S.K.Salai, Kodambakkam,
Chennai 600 024
3. The Executive Engineer, (Zone - X)
Greater Chennai Corporation - Zonal Office X
No.117, N.S.K.Salai,
Kodambakkam, Chennai 600 024
4. Asst. Executive Engineer, (Unit 29)
Greater Chennai Corporation - Zonal Office - X,
No.117, N.S.K.Salai,
Kodambakkam, Chennai 600 024.
5. The Assistant Engineer (Division - 127),
No.1, Iyappa Nagar Main Road,
Koyambedu, Chennai - 107

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Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for records pertaining to the Notice dated 07.02.2018 issued by the 2nd to 5th respondent vide No.Z.O.X.C.No./1082/2018 under Section 220 R/w, 222 of CCMC Act 1919 for evict the petitioner from the house property and quash the same.

For Petitioner : Mr.S.Janarthanan K. Babu
For Respondents: Mr.A Nagarajan

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.A.Nagarajan, learned Standing Counsel accepts notice on behalf of the respondents 1 to 5.

2 The petitioner claims that he is a resident of Natesan Nagar (West), 2nd Main Road, Virugambakkam, Chennai - 92 and originally his ancestors were in uninterrupted possession and enjoyment by way of succession of the property and he is residing in the said property along with his children and grandchildren and it is classified as "Grama Natham" in Chenchery Village.

3 The petitioner would further aver that in the fire accident that took place on 26.10.2016, he lost all the documents and a certificate dated 24.11.2016, was also given by the Tashildhar, Aminjakari Taluk, to that effect. The petitioner would further stated that to his shock and surprise, he was issued with the impugned notice dated 07.02.2018 by the respondents 2 to 5 under section 220 R/w 222 of the Chennai City Municipal Corporation Act, 1919, stating among other things that the petitioner has encroached upon the road by constructing a Semi Permanent Structure of 18.50 Sq.m (Size 6.09 x 3.04) at Natesan Nagar (West), 2nd Main Road, Virugambakkam, Chennai 600 092 which is vested with the Greater Chennai Corporation and calling upon him to remove the encroachment within seven days from the notice failing which, action will be taken to remove the same in accordance with law.

4 The learned counsel appearing for the petitioner has invited the attention of this Court to the typed set of documents as well as the Additional typed set of documents and photographs and would submit that as per the photographs available in Page No.9 of the Additional typed set of documents, in between the road and the property of the petitioner, a storm water drainage is located and it is not the petitioner who had encroached upon the road portion. It is the further submission that the petitioner has also been issued with 'B' Memo and Adangal and as such, it cannot be said that he is an encroacher and hence, prays for appropriate orders.

5 Per contra, the learned standing counsel appearing for Corporation of Chennai would submit that even as per the own admission of the petitioner, though he has been issued with 'B' Memo and Adangal and Tax receipts etc., the same will not confer any right or title in his favour. The Tahsildar, Aminjikarai Taluk, Shenoy Nagar, Chennai 600 030 in RC A1/0689/2018 dated 01.03.2018 addressed to the 5th respondent stated that the said land was inspected by the Maintenance Firka Surveyor and it was found that a portion of the land was encroached by the petitioner and it was well situated within the boundaries of T.S.No.134 of Block No.2 of Chenchery Village and along with the said communication, also enclosed a TSLR Certificate.

6 The Court has considered the rival submissions and also perused the materials placed before it.

7 In the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, this Court directs the respondents 2 to 5 to treat the impugned notice dated 07.02.2018 issued under section 220 R/w 222 of the Chennai City Municipal Corporation Act, 1919, as show cause notice for which the petitioner is at liberty to submit his response/reply by enclosing relevant and authenticated documents within a period of four weeks from the date of receipt of copy of this order and upon, receipt of the same, the Zonal Officer, Zone -10, Greater Chennai Corporation, No.117, NSK Salai, Kodambakkam, Chennai - 24, after giving an opportunity of personal hearing to the petitioner, shall consider and dispose of the said representation/ response within a further period of four weeks thereafter and communicate the decision taken to the petitioner and till such time, shall defer further decision in terms of the impugned notice dated 07.02.2018.

8 It is also made clear that till the disposal of the representation, to be submitted, by the Zonal Officer, Zone -10, Greater Chennai Corporation, No.117, NSK Salai, Kodambakkam, Chennai - 24 the petitioner shall not create any third party right in respect of the site/superstructure in question and shall not alter the physical features also.

9 The writ petition stand disposed of with the above direction. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rka/sk

To

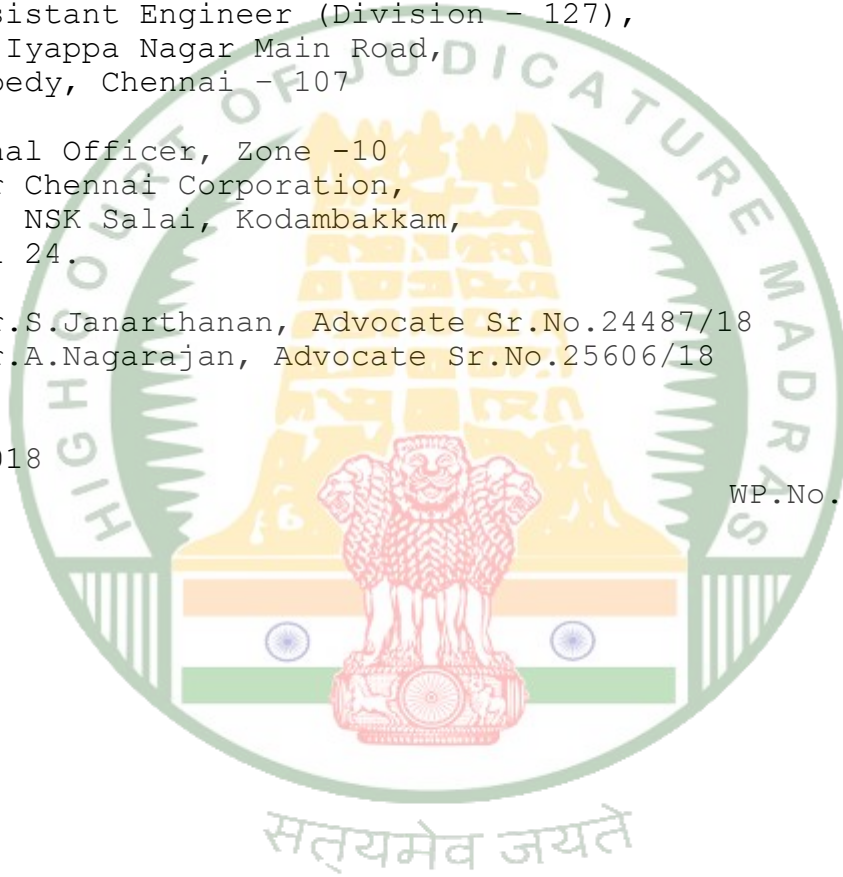
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5. The Assistant Engineer (Division - 127),
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Koyambedy, Chennai -107
6. The Zonal Officer, Zone -10
Greater Chennai Corporation,
No.117, NSK Salai, Kodambakkam,
Chennai 24.

+1cc to Mr.S.Janarthanan, Advocate Sr.No.24487/18
+1cc to Mr.A.Nagarajan, Advocate Sr.No.25606/18

VBA(co)
sm:25.4.2018

WP.No.3138/2018



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