

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.04.2018
CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.No.7489 of 2018
and WMP.No.9344 of 2018

P.Sengeni

... Petitioner

Vs.

- 1.The Commissioner,
Corporation of Chennai,
Park Town, Chennai-600 003.
- 2.The Executive Engineer,
Zone XIII, Ward 171,
Greater Chennai Corporation,
Saidapet, Chennai-600 015.
- 3.The Assistant Executive Engineer,
Zone XIII, Ward 172,
Greater Chennai Corporation,
Adyar, Chennai-600 020.

4.Ananthan

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents 1 to 3 from in any manner locking, sealing or demolishing the premises bearing No.28, Kakkannapuram, Taluk Office Road, Chinnamalai, Saidapet, Chennai-600015, pursuant to the notices dated 23.02.2018 and 08.03.2018 issued under the Tamil Nadu Town and Country Planning Act.

For Petitioner : Mr.B.Harikrishnan
For Respondents : Mr.K.S.Soundararajan

O R D E R

(Order of the Court was made by M.SATHYANARAYANAN, J.)
By consent, this writ petition is taken up for final disposal.

2. The petitioner claims that he is the owner of the property comprised in S.No.20/1, Block No.4, Venkatapuram Village, Saidapet, admeasuring to an extent of 3600 Sq.ft. and a hut bearing Door No.28, Kakkanpuraram, Little Mount, Saidapet, Chennai-600015 and it is also subjected to statutory levies. The petitioner would further claim that earlier there was a proposal to acquire lands under the Land Acquisition Act and subsequently those proceedings were dropped and would further add that one Dharamchand attempted to interfere with the petitioner's peaceful possession and enjoyment of the property and therefore, he was constrained to file a Suit in O.S.No.5603 of 1997 on the file of the XVIII Assistant City Court, Chennai, praying for permanent injunction restraining him from interfering with the petitioner's peaceful possession and enjoyment of the Suit property and it was decreed exparte, vide judgement and decree dated 17.07.2000.

3. The petitioner would further aver that to his shock and surprise, he was issued with the impugned notice dated 23.02.2018 from the third respondent under Sections 56(1), 57 and 85 of the Tamil Nadu Town and Country Planning Act, 1971 followed by yet another communication dated 08.03.2018 from the second respondent purporting to be a Locking, Sealing and Demolition Notice in and by which, the petitioner was called upon to secure compliance by producing the sanctioned plan within 30 days, failing which the premises of the petitioner will be demolished after locking and sealing. The petitioner, in this regard, has submitted representations dated 28.02.2018 and 09.03.2018 pointing out that he is only replacing the thatched shed and there is no illegal or unauthorized construction as claimed in the impugned notices. The petitioner, apprehending immediate dispossession and demolition, has come forward with this writ petition.

4. When the matter was called in the morning, this Court directed the learned counsel appearing for the petitioner to produce photographs of the site and superstructure and therefore, it was passed over and called in the afternoon and the learned counsel appearing for the petitioner has filed additional typed of documents containing five photographs.

5. The learned counsel appearing for the petitioner would submit that the third respondent is none other than his brother's son and due to malafide and oblique motive, he has submitted false representation to the official respondents, who, without proper inspection and verification, attempting to dispossess the petitioner from the premises in question without recourse of due process of law and therefore, prays for appropriate orders.

6. Mr.K.S.Soundararajan, learned counsel who accepts notice on behalf of the respondents 1 to 3 would submit that admittedly the petitioner, adjacent to his thatched shed, has started putting up full fledged construction without obtaining any planning permission/approval and therefore, action has been initiated under the provisions of the Tamil Nadu Town and Country Planning Act, 1971.

7. In response, the learned counsel appearing for the petitioner would submit that though the petitioner has submitted application seeking approval through on-line, for want of parent document, it could not be processed and therefore, the petitioner wants to file a comprehensive Civil Suit by impleading the Corporation of Chennai as party and till the filing of Civil Suit along with an application for interim order, the alleged offending construction need not be disturbed.

8. This Court, taking into consideration the above facts and circumstances as well as the submission made by the learned counsel appearing for the petitioner, grants liberty to the petitioner, if so advised and if it is open to him under law, to file a comprehensive Civil Suit along with an application for interim order, within a period of four weeks from the date of receipt of a copy of this order and till such time, the respondents 2 and 3 shall defer further decision to demolish the superstructure put up as shown in photographs appearing in Page No.2 of the additional typed documents. It is made clear that this Court has not expressed any opinion on the merits of the contention put forward by the petitioner and it is for the Civil Court to adjudicate the main issue as well as for grant of interim orders on merits based on quality of materials and evidence placed before it.

9. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/--

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

jvm

To

1.The Commissioner,
Corporation of Chennai,
Park Town, Chennai-600 003.

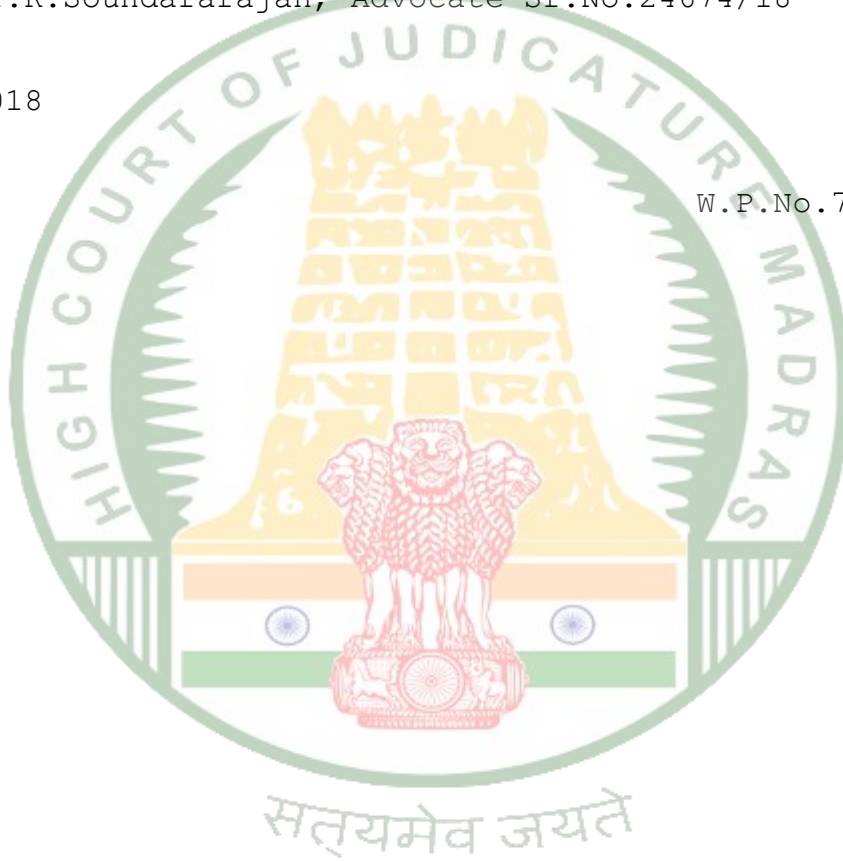
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Zone XIII, Ward 172,
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Adyar, Chennai-600 020.

+lcc to Mr.B.Harikrishnan, Advocate Sr.No.24448/18
+lcc to Mr.K.Soundararajan, Advocate Sr.No.24674/18

VBA(CO)
sm:17.4.2018

W.P.No.7489 of 2018



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