

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A.No.276 of 2018
and
CMP.No.1985 of 2018

S.Namachivayam ... Appellant/Petitioner

-Vs-

- 1.State of Tamilnadu rep. By
The Secretary to Government,
Municipal Administration and Water Supply Dept.,
Government of Tamil Nadu,
Fort St.George, Chennai-600 009.
- 2.The Regional Deputy Commissioner (South),
Greater Chennai Corporation,
Rippon Building,
Chennai-600 003.
- 3.The Zonal Officer,
13th Zone, Corporation of Chennai,
Adyar, Chennai-600 020.
- 4.Ms.Subashini ... Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters of Patent Appeal, against the order dated 03.01.2018 passed in WP.No.31638 of 2017, Petition presented under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the second respondent relating to the impugned notice No.10, dated 27.11.2017 issued under Section 258 of the Chennai City Municipal Corporation Act, 1919 in respect of the property at 12/11, Sri Ram Nagar Main Road, Sri Ram Nagar, Chennai-20 and quash the same.

For Appellant : Ms.R.Maheswari

For Respondents: Mr.M.Sri Charan Rengarajan, AGP
For R1

Mr.V.C.Selvasekaran
For RR2 && 3

Mr.K.Venkatesan
for Mr.M.Balasubramanian for R4

JUDGMENT

[Judgment of the Court delivered by C.T.SELVAM, J.]

Appellant/petitioner has moved WP.No.31638 of 2017 seeking to quash the impugned order of the second respondent dated 27.11.2017 issued under Section 258 of the Chennai City Municipal Corporation Act, 1919 in respect of property at 12/11, Sri Ram Nagar Main Road, Sri Ram Nagar, Chennai-20.

2. Appellant/petitioner was a tenant of the property at No.5/11, Bajanai Koil Street, Sri Ram Nagar, Chennai-113, under one T.Ramanathan. Since T.Ramanathan expired on 1.11.2000, fourth respondent claimed ownership by showing proof of mutation of corporation records and she collected rents after the demise of T.Ramanathan. After certain period, fourth respondent stopped collecting rent and refused to receive the same from Appellant/petitioner. Therefore, Appellant/petitioner filed RCOP.No.455 of 2011, in which fourth respondent appeared through her counsel and filed her counter statement. Under order dated 03.07.2012, the Rent Controller directed the appellant/petitioner to deposit the rent in Court. Appellant/petitioner is promptly remitting the rent and paying electricity charges and all taxes in respect of the property. Thereafter, fourth respondent, through her husband, engaged in hiring goondas to disturb the tenancy of the appellant/petitioner by threatening him of dire consequences and by breaking an adjacent building and EB box. Hence, appellant lodged police complaint and an order was also passed in RCOP.No.1944 of 2011 for restoration of EB connection on 23.11.2012. Petitioner came to know that OP.No.409 of 2001 filed by one Ranganathan is pending in respect of succession to the property. Having failed in all illegal attempts, fourth respondent used her money and muscle power and caused the 2nd respondent and 3rd respondent to issue the impugned notice dated 27.11.2017 under Section 258 of Chennai City Municipal Corporation Act, 1919. Petitioner has filed WP.No.31638 of 2017

challenging such notice. Under orders in WP.No.31638 of 2017 and WMP.No.34756 of 2017 dated 03.01.2018, learned single Judge dismissed the writ petition. Challenging such order, appellant/petitioner has preferred the present writ appeal.

3. Heard learned counsel for appellant, Mr.M.Sri Charan Rengarajan, learned Additional Government Pleader for first respondent as also learned counsels for the respondent 2 to 4.

4. Though this Court had come to the aid of the petitioner by way of order dated 12.02.2018, it was brought to the notice of this Court on the last hearing date that orders were obtained behind the back of the respondent, despite fourth respondent having resorted to caveat procedure. When so informed, this Court has passed an order of status quo. The matter is further posted today.

5. Learned counsel for appellant submits that notice on caveator indeed was served on the appellant, the same having been received by his wife, who was an illiterate and ignorant person. Appellant had not so much as opened the RPAD cover containing the notice of caveat. Learned counsel so submits before us as a contention and submission, which would weigh with this Court in finding in favour of appellant and to the effect that appellant is not guilty of any wrong doing.

6. We are unable to subscribe to the view expressed by learned counsel and are of the view that it would only be appropriate to dismiss the writ appeal on the ground of suppression of fact.

7. This Writ Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kmi

To:

1.The Secretary to Government,
Municipal Administration and Water Supply Dept.,
Government of Tamil Nadu,
Fort St.George, Chennai-600 009.

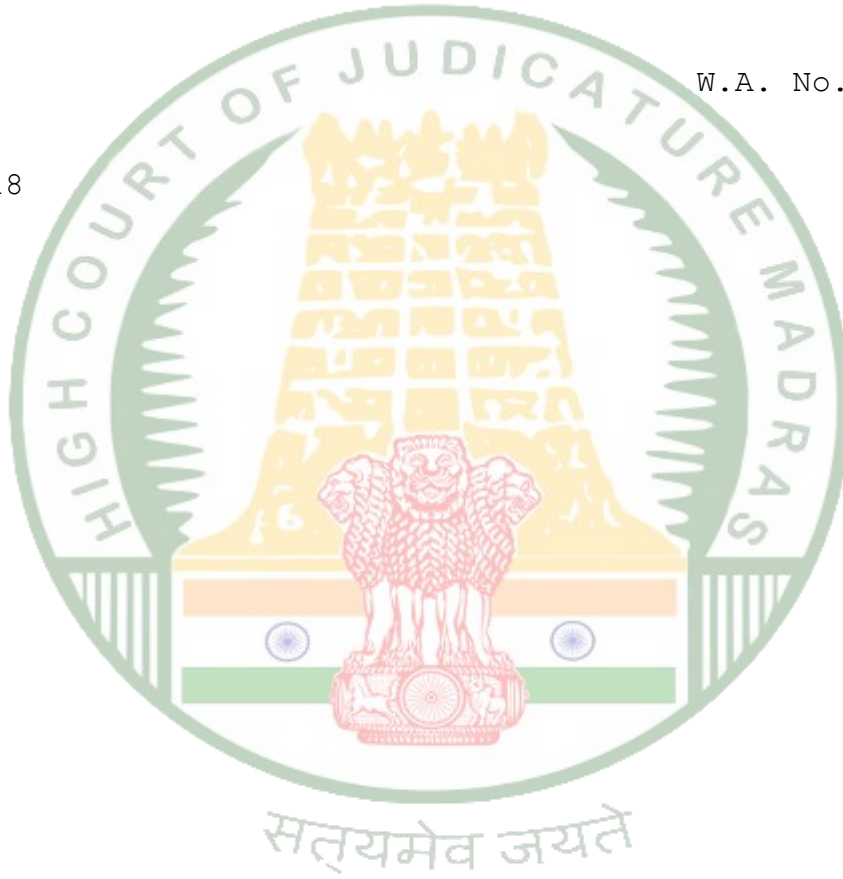
2.The Regional Deputy Commissioner (South),
Greater Chennai Corporation,
Rippon Building,
Chennai-600 003.

3.The Zonal Officer,
13th Zone, Corporation of Chennai,
Adyar, Chennai-600 020.

+2ccs to Mr.M.Balasubramanian, Advocate, S.R.No.15287
+1cc to Ms.R.Maheswari, Advocate, S.R.No.15545
+1cc to the Government Pleader, S.R.No.15901

W.A. No.276 of 2018

GP(CO)
CS/22/03/18



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