

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.11201/2018

S.Palani

Petitioner

Versus

1.The Member Secretary
Chennai Metropolitan Development
Authority, No.1, Gandhi Irwin road
Egmore, Chennai 600 008.

2.The Commissioner
Corporation of Greater Chennai
Chennai 600 003.

3.The Executive Engineer
Zone No.V, Corporation of Greater
Chennai, No.47, Basin Bridge road
Chennai 600 021.

4.Babu Ammal and 4 others

5.M.K.Gunasekaran

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 1st respondent to take action for the removal of encroachment in the public lane connecting the Bashiyakarl Naidu Street and Perumal Mudali Street, in kondithoppu,

Chennai-79 made by the adjacent houses owners bearing New No.31, Old No.12 and New No.33, Old No.13, Perumal Mudali Steet, on the basis of the petitioner representation dated 03.08.2017 [with acknowledgment] to the respondents with reference to their earlier proceedings.

For Petitioner : Mr.S.Palani, Party-in-person

For R1 : Mr.K.Raja Srinivas

For R2 & R3 : 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.K.Raja Srinivas, learned Standing counsel accepts notice on behalf of the 1st respondent and Mr.A.Nagarajan, learned counsel accepts notice on behalf of the respondents 2 and 3.

2 The petitioner claims to be the tenant in respect of the premises bearing New No.2, Old No.23/2, Thirunavukkarasu Garden, 4th Street, Korukkupet, Chennai 600 021 and according to him, there are encroachments in the public land connecting Bashiyakaralu Naidu Street and Perumal Mudali Street in Kondithoppu, by the owners of the houses bearing New No.31, Old No.12 and New No.33, Old No.13, of Perumal Mudali Street, Kondithoppu, Chennai-79. The petitioner, on an earlier occasion, filed WP.No.7298/2010, praying for issuance of a writ of

mandamus, directing the respondents 1 to 3 herein to take appropriate action for removal of encroachment in the public land connecting Bashiyakaralu Naidu Street and Perumal Mudali Street, Kondithoppu, Chennai-79 and it was disposed of on 20.04.2010 by directing the 2nd respondent to consider and dispose of the representation on merits and in accordance with law and since it has not been complied with, the petitioner filed Cont.P.No.804/2011 and it was closed on the ground that action has already been taken.

3 The petitioner / Party-in-person would submit that only partial removal of encroachment has been done and the earlier order dated 20.04.2010 made in WP.No.7298/2010 has not been complied with in letter and spirit and therefore, he is constrained to approach this Court, by filing the present writ petition.

4 The Court heard the submissions of Mr.K.Raja Srinivas, learned Standing counsel appearing for the 1st respondent and Mr.A.Nagarajan, learned Standing counsel appearing for the 2nd respondent and perused the materials placed before it.

5 This Court, in the light of the facts and circumstances and without going into the merits of the claim projected by the petitioner,

directs the 3rd respondent to put the petitioner as well as the 5th respondent on notice and cause an inspection of the premises bearing New No.2, Old No.23/2, Thirunavukkarasu Garden, 4th Street, Korukkupet, Chennai-21 as well as the premises bearing bearing New No.31, Old No.12 and New No.33, Old No.13, Perumal Mudali Steet, said to be in possession of the respondents 4 and 5 and find out whether there are any encroachment on the public lane and further that the superstructures have been put up by obtaining planning approval or not and the said exercise is to be carried out within a period of six weeks from the date of receipt of a copy of this order and depending upon the result of the inspection, the 3rd respondent shall take appropriate action in accordance with law within a further period of ten weeks thereafter and communicate the decision taken to the petitioner as well as to the respondents 4 and 5 herein.

5 The writ petition stands disposed of with the above direction.

No costs.

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[MSNJ]

[PRMJ]

28.04.2018

Internet : Yes

AP

To

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P.RAJAMANICKAM, J.,

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