

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A.No.415 of 2018
and
C.M.P.No.3568 of 2018

S.V.N.Natarajan
S/o.S.V.N.Nagappan ... Appellant/Writ Petitioner

Vs

The Commissioner,
Corporation of Chennai,
Ribbon Buildings,
Chennai - 600 003. ... Respondent/Respondent

Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 22.12.2017 passed in W.P.No.24486 of
2008 passed by this Court.

WP.No.24486 of 2008:Writ petition filed under Article 226 of the
constitution of India, praying for issuance of a writ of
mandamus to direct the respondent not to interfere with the
petitioner's peaceful possession and enjoyment of the property
at plot No.79-A in the approved lay out
N.L.B.D.M.D.D.A.B.No.152/1973 comprised in Vinayagar Nagar,
Survey No.317/1A2A 1, Velacherry Village.

For Appellant : Mr.R.Saravana Kumar

For Respondents: Mr.K.Soundarajan,
Standing Counsel

JUDGMENT

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

By consent, the writ appeal is taken up for final disposal.
Mr.K.Soundarajan, the learned standing counsel, accepts notice
for the respondent.

2. The appellant/writ petitioner claims to be the absolute owner of the site admeasuring an extent of 2880 sq.ft. comprised in Survey No.317/1A2A1, plot No.79A, layout approval No.LPDM/DTCP No.152/1973 at Velacherry Village and also traced out the title from the year 1974 onwards. The grievance expressed by the appellant/writ petitioner is that the respondent is trying to dispossess him from the land, alleging that in the layout approval, the land was meant for community hall purpose and the appellant/writ petitioner is trying to encroach upon the land. The appellant/writ petitioner also expressed the grievance that without resorting to due process of law, he cannot be dispossessed and hence, came forward to file the writ petition and it was entertained. The respondent has filed counter affidavit stating among other things that as per the layout approval, 10% of the land in the said layout was reserved and vested with the erstwhile panchayat of Velacherry for public and community purposes and in the year 1978, Velacherry merged with Corporation of Chennai and thereafter, no other authority other than Corporation of Chennai is having title, right and interest in the open space reservation and admittedly, the appellant/writ petitioner claims to be the owner of a part of the land which is reserved for community hall purpose and in the absence of his right, title and ownership, it is open to the Corporation to take possession of the same. The learned Judge has taken into consideration the said aspect and also dealt with W.P.No.11119 of 2016 filed by one Mr.N.Raman, dismissed both writ petitions vide common order dated 22.12.2017 and also directed initiation of action against the Tahsildar, Velacherry and challenging the legality of the same, the petitioner came forward to file this writ appeal.

3. The learned counsel appearing for the appellant/writ petitioner would submit that challenging the order dated 22.12.2017, the Tahsildar, Velacherry Taluk, Chennai - 600 113, has also filed an appeal in W.A.No.1811 of 2017 and obtained interim orders. The learned counsel would submit that on account of apprehension of the immediate threat of dispossession, without submitting representation, appellant/writ petitioner has straightaway filed the writ appeal and he may be permitted to submit a detailed representation as to his right, title and ownership in respect of the site in question by enclosing all the documents and prays for a direction to the concerned officials to consider the same and dispose of the same on merits and in accordance with law. The learned counsel appearing for the appellant would further submit that no superstructure has been put up on the site except putting up of a compound wall to protect his possession.

4. This Court has considered the rival submissions and perused the materials placed before it.

5. This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the appellant/writ petitioner, is of the considered view that the appellant/writ petitioner is to be given one more opportunity to submit a representation as to his right, title and ownership in respect of the site in question and accordingly, grants liberty to submit a detailed representation to the Regional Deputy Commissioner (South), Greater Chennai Corporation, Adyar, Chennai - 600 020, by enclosing all relevant and authenticated documents within a period of four weeks from the date of receipt of a copy of this order and such official, upon receipt of the same, shall entertain the same and afford an opportunity of personal hearing to the appellant/writ petitioner and consider and dispose of the representation on merits and in accordance with law within a further period of eight weeks thereafter and communicate the decision taken to the appellant/writ petitioner and until such time, shall defer further decision to dispossess the appellant/writ petitioner from the site in question. The appellant/writ petitioner, till the disposal of the representation to be submitted, by the Regional Deputy Commissioner (South), Greater Chennai Corporation, Adyar, Chennai - 600 020, shall not create any third party rights in respect of the site in question and shall not alter the physical features also.

The writ appeal stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/--

Assistant Registrar(CS IX)

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Sub Assistant Registrar

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To

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1.The Commissioner,
Corporation of Chennai,
Ribbon Buildings,
Chennai - 600 003.

2.The Regional Deputy Commissioner (South),
Greater Chennai Corporation,
Adyar,
Chennai - 600 020.

+1cc to Mr.R.Saravanakumar, Advocate Sr.No.25881
+1cc to Mr.K.Soundararajan, Advocate SR.No.26383

SS(co)
sm:24.4.2018

W.A.No.415 of 2018



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