

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:03.01.2018

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL

AND

THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

W.P.No.33927 of 2017 and

W.M.P.No.37632 of 2017

St. Anthony's Church,
Represented by its Parish Priest Rev.
Father Dr.Samuel Savio
No.45, Dhanakotti Raja Street,
Ekkattuthangal,
Chennai - 600 032.

... Petitioner

Vs.

- 1.The Commissioner, Land Administration,
Ezhilagam,Chepauk, Chennai - 4.
- 2.The District Collector,
Chennai Singaravelan Maaligai,
Rajaji Salai, Chennai - 1.
- 3.The Tahsildar, Guindy Taluk
Guindy Taluk Office Building,
Chennai - 600 032.
- 4.The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.
- 5.The Commissioner,
Greater Chennai Corporation,
Ripon Building, Park Town, Chennai - 600 003.
- 6.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Nadar Complex, Egmore,
Chennai - 8.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 1st and 3rd respondents to consider the latest representation dated 08.09.2017 for Alienation or Grant of

Government Land in T.S.No.22 Block No.2, Ekkatuthangal Village, where the Church building is situate at No.45, Dhanakotti Raja Street, Ekkattuthangal, Chennai - 32 and dispose of the same at the earliest within a time frame fixed by this Court.

For Petitioner : Mr.Amizhdhu
For RR 1 to 4 : Mr.A.N.Thambidurai
Special Government Pleader
For 5th Respondent : Mr.K.Soundararajan
For 6th Respondent : Mr.C.Johnson

O R D E R

[Order of the Court was made by S.VAIDYANATHAN, J.]

Heard the learned counsel for the petitioner. Mr.A.N.Thambidurai, learned Special Government Pleader takes notice for respondents 1 to 4; Mr.K.Soundararajan, learned Standing Counsel takes notice for the 5th respondent and Mr.C.Johnson, learned Standing Counsel takes notice for the 6th respondent. With the consent of either side, the Writ Petition itself is taken up for final disposal.

2.The petitioner has come forward with an innocuous prayer of disposing of the representation by trying to keep alive the issue which has already been concluded by way of the writ petition to direct the authority to dispose of the review petition and that by an order dated 04.12.2017, the authority has rejected the review petition.

3.According to the petitioner-Church, they have been in possession for more than 100 years and the said place is used for worship for the local Christians. According to him, they sought for issuance of patta by requesting the Government to give a sale deed and consequently issue patta.

4.Yet another point taken by the petitioner, which is contra plea of the earlier plea mentioned supra, is that the petitioners are entitled to have possession by means of "adverse possession". If the petitioner's right has got to be established, with regard to adverse possession, the right of remedy is only before the Civil Court and this Court cannot permit the petitioner to keep the issue alive for ever, which has already been concluded, pursuant to the orders of the authority dated 04.12.2017.

5.The observation made by the authority in his order dated 04.12.2017 is beyond the scope of his jurisdiction, but, however, since the review petition has been dismissed, without rendering any finding on the issue that has been concluded, leaving it open to the petitioner to agitate before the Civil

Court, the petitioner is permitted to approach the Civil Court and the Civil Court is entitled to entertain the same, if otherwise, there is no other legal impediment.

6. With the above observations, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS II)

//True copy//

Sub Assistant Registrar

Sgl
To

1. The Commissioner, Land Administration,
Ezhilagam, Chepauk, Chennai - 4.
2. The District Collector,
Chennai Singaravelan Maaligai,
Rajaji Salai, Chennai - 1.
3. The Tahsildar, Guindy Taluk
Guindy Taluk Office Building,
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5. The Commissioner,
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Ripon Building, Park Town, Chennai - 600 003.
6. The Member Secretary, सतयमेव जयते
Chennai Metropolitan Development Authority,
Thalamuthu Nadar Complex, Egmore,
Chennai - 8.

+1cc to Mr.K.Soundararajan, Advocate SR.No.373
+1cc to Mr.C.Johnson, Advocate SR.No.617
+1cc to Government Pleader SR.No.452

W.P.No.33927 of 2017

GN(18/01/2018)