IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

WP.No.13181/2018 & WMP.Nos.15517 & 15518/2018

Mrs.Menaga ..Petitioner

Versus

1.The Chief Secretary to Government
Government of Tamil Nadu
Fort St George, Rajaji Salai
Chennai 600 009.
2.The District Collector
Kancheepuram District,
Kanchpeepuram.
3.The Commissioner
Corporation of Chennai
Ripon Building, Chennai.
4.The Tahsildar
Alandur Taluk
Kancheepuram District.
5.The Sub Registrar
Alandur, Chennai.

6.P.Sasikala
7.P.Vasanth
8.K.Parimala
9.B.Kannan ..Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 2 to 4 to consider the petitioner's representation dated 17.11.2016.

For Petitioner : Mr.C.Prakasam for
Mr.k.V.Ramesh
For RR 1 to 4 : Mr.A.N.Thambidurai, Spl.GP
For R5 : Mr.T.M.Pappiah, Spl.GP
For RR 6 to 9 : Mr.M.Himavanth

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondents. 1 to 4 ; Mr.T.M.Pappiah, learned Special Government Pleader accepts

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notice on behalf of the 5th respondent and Mr.M.Himavanth, learned counsel accepts notice on behalf of the respondents 6 to 9.

2 The writ petition is styled as a Public Interest Litigation and according to the petitioner, the "A" Schedule Property bearing Door No.17/30, Marison 2nd Street, Alandur, Chennai-600 016, admeasuring to an extent 2668 sq.ft., along with a superstructure, originally belonged to one Padavettan Vaigaiyara and subsequently, she had purchased the said property through a registered Sale Deed bearing Doc.No.1753/1978 dated 18.10.1978 registered on the file of the office of the Sub Registrar, Saidapet and also claims to be the owner of the "B" Schedule property bearing Door.No.18/20 of the very same street along with the site and superstructure admeasuring to an extent of 3505 sq.ft., and patta was also issued in her favour. The petitioner would further state that she has executed a registered Settlement Deed bearing Doc.No.1229/2006 dated 12.04.2006, registered on the file of the office of the Sub Registrar, Alandur, in favour of her physically challenged son, viz., Deepan @ Deepak and they are in joint possession and enjoyment of the property and it is also subjected to statutory levies. It is the specific claim of the petitioner that there is a road on the Eastern side of S.No.213 and it is known as Marison 4th Street and it is earmarked as a road in the revenue records and it is shown as "C" Schedule property. The petitioner would further state that the respondents 6 to 9 has illegally trespassed into the said road and put up a superstructure without any permission or authorisation and in the process, have also fabricated the documents with the connivance of the officials concerned and in this regard, the petitioner has submitted a representation dated 17.11.2016 to the respondents 2 to 4 and despite, receipt and acknowledgment, no orders have been passed either accepting or rejecting the representation and hence, the petitioner came forward to file the present writ petition.

3 The learned counsel for the petitioner has invited the attention of this Court to the typed set of documents and would submit that since the private respondents had encroached upon the public road and put up a superstructure without any permission or authorisation and in the process, also fabricated the records, the petitioner was constrained to approach this Court by filing this writ petition as a Public Interest Litigation and prays for interference.

4 Per contra, Mr.m.Himavanth, learned counsel appearing for the respondents 6 to 9 has drawn the attention of this Court to the counter affidavit as well as to the typed set filed by the private respondents and would submit that the petitioner along with her son, viz., Deepan @ Deepak has filed a suit in OS.No.30/2015 on the file of the Court of the Subordinate Judge, Tambaram, against the private respondents 6

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to 9 for declaration to declare that they are having Easementary right of usage over "C" Schedule property and also for permanent injunction restraining them from trespassing over the "A" and "B" Schedule Properties and making illegal construction over the "C" Schedule Property and pleadings are also completed in the said suit and no interim orders are in operation and deliberately suppressing the filing of the said suit, she has filed the present writ petition as a Public Interest Litigation by abusing the process of this Court. He would further add that they also obtained necessary planning permission and has put up a superstructure strictly in accordance with the sanctioned plan and invited the attention of this Court to Documents No.5 and 6 annexed to the typed set of documents filed by the respondents 6 to 9 dated 05.06.2018 and prays for dismissal of this writ petition with exemplary cost.

5 The Court heard the submissions of Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 1 to 4 and Mr.T.M.Pappiah, learned Special Government Pleader appearing for the 5th respondent and perused the materials placed before it.

6 The fact remains that the petitioner and her son had filed a comprehensive suit in OS.No.30/2015 on the file of the Court of the Subordinate Judge, Tambaram, for declaration and other consequential reliefs in respect of the very same "C" Schedule property and without disclosing the same, the petitioner has filed the present writ petition styled as the Public Interest Litigation. In the considered opinion of the Court, it is nothing but a Private Interest Litigation and also the deprecates practice adopted by the petitioner in not disclosing the fact of filing of the civil suit.

7 Be that as it may, since the petitioner has availed the Common Law Remedy in the form of the above said suit, the writ petition is not maintainable. Therefore, the same is dismissed. However, taking into consideration of the fact that the petitioner is a lady and is supporting her physically challenged son, this Court is not inclined to award any cost. Consequently, the connected miscellaneous petitions are dismissed.

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Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

AP

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To

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+ 2 ccs Mr. K.V. Ramesh, Advocate Sr.35044
+ 1 cc to Mr. M. Himavanth, Advocate Sr.34971
+ 1 cc to Mr. Government Pleader Sr.35354

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