

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY
W.P.No.27489 AND WMP Nos.31999 & 32002 of 2018

S. Prakash ... Petitioner

vs.

1. The District Collector,
Kancheepuram District,
Kancheepuram
 2. The District Collector,
Chennai District,
Chennai - 600 001
 3. The Thasildar,
Velachery Taluk,
Velachery,
Chennai - 600 042
 4. The Tashildar,
Sholinganallur Taluk,
Sholinganallur,
Chennai - 600 119
 5. The Chairman,
TANGEDCO,
Anna Salai,
Chennai - 600 002
 6. The Assistant Engineer,
TANGEDCO,
Velachery Main Road,
Velachery,
Chennai - 600 042
- Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, forbearing the respondents 1 to 4 from demolishing the premises

of Petitioner at No.121 A and 121 B, Bhuvaneshwari Nagar, Karuna Nagar, Chennai - 600 042 which was put up by the Petitioner without due process of law pursuant to the representation given by the petitioner dated 24.09.2018.

For Petitioner : Mr.V. Karnan

For Respondents 1 to 4 : Mr.V.Kathirvelu
Additional Government Pleader

For Respondents 5 & 6 : Mr.S.K. Rameshwar
Standing Counsel

O R D E R

(Order of the Court was made by S. VAIDYANATHAN,J.)

The petitioner has filed the writ petition for issuance of a Writ of Mandamus forbearing the the respondents 1 to 4 from demolishing the premises of Petitioner at No.121 A and 121 B, Bhuvaneshwari Nagar, Karuna Nagar, Chennai - 600 042 which was put up by the Petitioner without due process of law pursuant to the representation given by the petitioner dated 24.09.2018.

2. The case of the Petitioner is that he is the absolute owner of the plot Nos.121-A and 121-B each measuring 1200 sq.ft at Karuna Nagar, Chennai - 42, which were purchased by way of sale deed in Document No.7835 of 2015 and Document No.2894 of 2016 on the file of S.R.O. Velachery. It is also the case of the petitioner that the petitioner's vendor's vendor one Mrs.Muthumeenakshi gave an application to the Special Tahsildar (Land acquisition) on 02.05.2013 to know the status of the two plots, for which, the Tahsildar gave a reply on 09.05.2013 stating that the record reveals that the land in T.S.No.1/80, Block No.189 of Velachery Village does not cover under the land acquisition proceedings and further stated that she had perfected her title by mutation in all the revenue records and obtained T.S.L.R vide C.A.No.423/2013, dated 03.04.2013 and as per Town Survey land Registry, the Town survey number is T.S.No.1/80 and Block No.189. Thereafter, Mrs.Muthumeenakshi had executed a power of attorney dated 13.11.2006 in document No.2807 of 2006 at the office of S.R.O, Velachery in favour of one Mr.M.M. Balasubramaniam empowering him to deal with the Plot Nos.121 and 122 measuring about 4800 sq.ft in all respects including sale.

3. It is also the case of the petitioner that Mrs.Muthumeenakshi, through her power agent

Mr.M.M.Balasubramaniam, sold the said property bearing Plot Nos.121 and 122, each measuring 2400 sq.ft to M/s Shine well promoters, represented by its managing partners under a sale deed dated 22.05.2013 which was registered as document No.2976 of 2013 on the file of S.R.O, Velachery. The Shine promoters have sub divided into four different plots viz., 121-A, 121-B, 122-A and 122-B

and obtained CMDA approval. After obtaining legal opinion and encumbrance certificate, the petitioner purchased the above property.

4. It is the further case of the petitioner that on 17.09.2018 and 20.09.2018, the Tahsildar, Velachery along with officials directed the petitioner to immediately stop the construction and vacate and handover the vacant possession of the property, without seeking any explanation and without issuing any notice and on 24.09.2018 he had sent representation to the respondents 1 to 3 and the same was kept pending without any action and on 10.10.2018, the 6th respondent without issuing any show cause notice, disconnected the electricity connection and when the petitioner questioned, he was intimated that a common notice has been affixed on the nearby adjacent wall. The notice, which was affixed by the respondents 1 to 4 does not contain any information. Hence the petitioner has filed the present petition seeking for the above relief.

5. Heard the learned counsel for the petitioner, learned Additional Government Pleader and the Standing counsel appearing for the Electricity Board.

6. According to the petitioner, inspite of issuing notice as contemplated under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, notice has been affixed in the wall adjacent to the property of the petitioner and they are contemplating demolition.

7. The notice dated 10.10.2018 which is at page No.57 of the typed set of papers shall be treated as show cause notice and it is for the petitioner to give explanation and enquiry shall be completed on merits and in accordance with law within a period of two weeks from the date of receipt of explanation from the petitioner.

8. The supply of Electricity shall not be disconnected only till 11.11.2018 on account of ensuing Dusserah/Deepavali Festival. It is made clear that in case if there is any violation of Plan, electricity shall be disconnected. It is needless to point out that the petitioner shall not try to approach this court for restoration of electricity in any other

manner.

9. Before parting with the case, this Court directs the respondents to file Compliance Report on or before 12.11.2018 in regard to the observations/directions of this Court being carried out by it, scrupulously and that too, in true letter and spirit.

10. With the above observation and direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

sr

To:

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Chennai - 600 002

6. The Assistant Engineer,
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Velachery Main Road,
Velachery,
Chennai - 600 042

+1cc to Mr. V.Karnan, Advocate, S.R.No. 71600

W.P.No.27489 of 2018

GN (22/10/2018)



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