

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2019

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAISWAMY

W.P. No.4565 of 2019

S.Saraswathi

.. Petitioner

Vs.

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

2.The Executive Officer,
Thiruneermalai Town Panchayat,
Thiruneermalai,
Chennai - 600 043.

3.Madhumalar

4.Vijayakumar

5.Rajendran

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus directing the 2nd respondent to implement the 1st respondent's letter No.EC/S-II/14618/2014 dated 10.10.2018 thereby to remove the unauthorized construction carried out by the respondents 3 to 5 in the petitioner's Plot No.15, Durga Nagar, Thiruneermalai, Chennai - 600043 comprised in Survey No.377/4 New Survey No.377/81 of Thiruneermalai Village, Tambaram Taluk, Kancheepuram District.

For Petitioner : Mr.A.M.Ayyadurai

For Respondents : Mr.S.Thiruvengadam (R1)
Mr.V.Jayaprakash Narayanan,
Government Pleader (i/c) (R2)

O R D E R

(Order of the Court made by the Hon'ble Chief Justice
and M.Duraiswamy, J.)

The petitioner has filed the above Writ Petition to issue a Writ of mandamus directing the 2nd respondent to implement the

letter dated 10.10.2018 of the 1st respondent to remove the unauthorized construction put up by the respondents 3 to 5 in the petitioner's Plot No.15, Durga Nagar, Thiruneermalai, Chennai - 600043 comprised in Survey No.377/4 New Survey No.377/81 of Thiruneermalai Village, Tambaram Taluk, Kancheepuram District.

2.It is the case of the petitioner that she is the absolute owner of Plot No.15, Durga Nagar, Thiruneermalai, Chennai - 600 043 measuring an extent of 3000 sq.ft comprised in Old Survey No.377/4, New Survey No.377/81. Further, the petitioner contended that the respondents 3 to 5 are no way connected with the said land and have trespassed into it and illegally put up construction in the said land. In the affidavit filed in support of the Writ Petition, the petitioner has also stated that she has filed a Civil Suit in O.S.No.124 of 2010 on the file of the Additional District Munsif Court, Alandur for permanent injunction restraining the respondents 3 to 5 from interfering with her land and to forbear them from putting up construction.

3.From the averments stated in the affidavit filed in support of the Writ Petition, it is clear that the dispute between the petitioner and the respondents 3 to 5 is purely civil in nature. When the petitioner has already filed a Civil Suit as against the respondents 3 to 5 restraining them from putting up construction, the present Writ Petition cannot be entertained. Since the dispute is purely civil in nature, the issues cannot be decided in the Writ Petition filed under Article 226 of the Constitution of India. The remedy available to the petitioner is only to get appropriate relief from the Competent Civil Court.

4.In such view of the matter, we are not inclined to entertain the Writ Petition. Accordingly, the same is dismissed. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

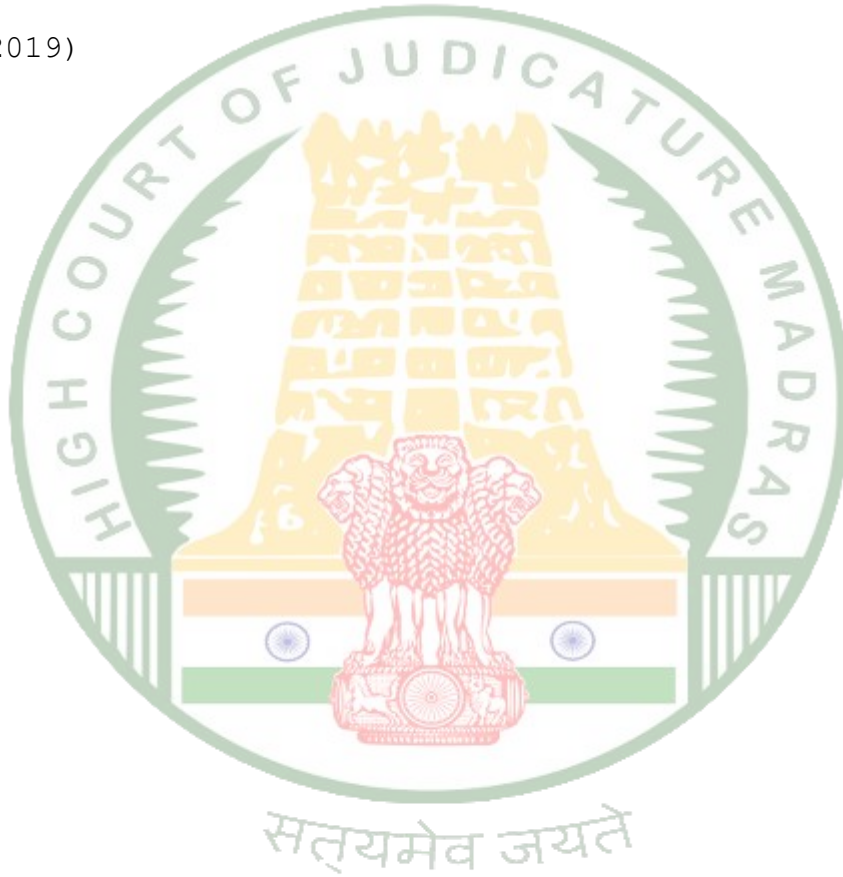
1.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

2.The Executive Officer,
Thiruneermalai Town Panchayat,
Thiruneermalai,
Chennai - 600 043.

+1cc to Mr.A.M.Ayyadurai, Advocate, S.R.No.15272
+1cc to Mr.S.Thiruvengadam, Advocate, S.R.No.15253
+1cc to the Government Pleader, S.R.No. 15545

W.P.No.4565 of 2019

SV(CO)
GN(08/03/2019)



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