

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.01.2019

CORAM

THE HON'BLE MR JUSTICE M. VENUGOPAL
AND
THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

W.P.No.21965 of 2016

M. Bala

... Petitioner

Vs

1. The Revenue Deputy Commissioner,
Corporation of Chennai,
Dr.Muthulakshmi Road (LB Road),
Adyar, Chennai - 600 020.
2. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai -3
3. The Chairman,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai, Chennai.
4. Selvakumar

..... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus, directing the Respondents No.1 and 2 to remove the encroachment made by the Fourth Respondent in between Plot Nos.58 and 59, 15th Cross Street, C.S. Colony, Koondu Veedu, Indira Nagar, Chennai - 600 020.

For petitioner : Mr.S. Jaganathan

For R.1 and R.2: Mr.S. Sathya Gandhi for
Mr.A. Nagarajan

For R.3 : Mrs.D. Latha

For R.4 : No appearance

ORDER

(Order of the Court was made by M VENUGOPAL,J.,)

Heard the Learned Counsel for the Petitioner and the Learned Counsels for the Respondents 1 to 3.

2. Counter of Respondents 1 and 2 is filed. No counter is filed on behalf of the Respondents 3 and 4.

3. According to the Petitioner, he is the absolute owner of the Property House, Ground and premises at Old No.58, New No.15, 15th Cross Street, C.S. Colony, Koondu Veedu, Indra Nagar, Adyar, Chennai - 20 and comprised in T.S./R.S.No.6, Block No.11, Kalikundram Village, Mylapore, Triplicane Taluk, Chennai. The Third Respondent had executed Registered Sale Deed dated 17.06.2003 (vide Document No.1477 of 2003) on the file of Sub Registrar Office, Adayar and obtained Patta in C.A.No.1093 of 2003 issued by Tahsildar, Mylapore-Triplicane Taluk.

4. As a matter of fact, the Petitioner is in possession of the Property from the year 1982 by obtaining Electricity Service connection in his name and paying Property Tax after assessment and also Water Tax is paid in his name.

5. There is a passage between the Petitioner's plots i.e., Plot Nos.58 and 59 i.e., on the Northern Side leading to Canal Bank Road. In fact, the Fourth Respondent was originally residing in an encroached hut at Canal Bank road and that the Respondents No.1 and 2 viz., Corporation of Chennai evicted him from his hut for putting up public Toilet. The Fourth Respondent initially tied his cattle on the Northern side of his House. The Petitioner had not objected about the encroachment, since there was only cattle and later, the Fourth Respondent sold his cattle and converted the shed into a residential House and started residing there.

6. In reality, the Fourth Respondent had obtained electricity, water and drainage connection in an illegal manner. When the Petitioner had objected to the conduct of the Fourth Respondent, he was threatened by henchmen of the Fourth Respondent. It is represented on behalf of the Petitioner that the Fourth Respondent had erected a Political party Board before

his residence and his name is inscribed as 'G. Selvakumar', Secretary of the said party. Hence, the Respondents 1 and 2 are not taking any action.

7. A complaint was addressed by the Petitioner on 27.08.2015 to the First Respondent / The Revenue Deputy Commissioner, Corporation of Chennai and to the Hon'ble Chief Minister's Cell which was forwarded to the Respondents 1 and 2 for taking necessary action. However, no action was taken in the subject matter in issue. Hence, the Petitioner has filed the present Writ Petition praying for passing of an Order by this Court in directing the Respondents 1 and 2 to remove the encroachment made by the Fourth Respondent in between Plot Nos.58 and 59, 15th Cross Street, C.S. Colony, Koondu Veedu, Indira Nagar, Chennai - 600 020.

8. In response, the Learned Counsel for the Respondents 1 and 2 submits that the Petitioner's claim is to be addressed by the Third Respondent / Tamil Nadu Slum Clearance Board since Greater Chennai Corporation has no jurisdiction to take action in the land of Tamil Nadu Slum Clearance Board. Therefore, the Greater Chennai Corporation is a formal party to the present Writ Petition and in short, the relief claimed by the Petitioner comes within the ambit of the Third Respondent/Tamil Nadu Slum Clearance Board.

9. The Learned Counsel for the Third Respondent informs that the Third Respondent/Tamil Nadu Slum Clearance Board will look into the grievance of the Petitioner within a reasonable time, to be determined by this Court.

10. Considering the fact that the Petitioner has come out with a plea that the Fourth Respondent is to be directed to remove the encroachment made by him in between Plot Nos.58 and 59, 15th Cross Street, C.S. Colony, Koondu Veedu, Indira Nagar, Chennai - 600 020 by the Third Respondent/Tamil Nadu Slum Clearance Board and the said space in between Plot Nos.58 and 59, 15th Cross Street, C.S. Colony, Koondu Veedu, Indira Nagar, Chennai - 600 020 is shown as 'Lane' in the Lay Out Plan of the Third Respondent / Tamil Nadu Slum Clearance Board, this Court, without delving upon the merits of the subject matter in issue and also not expressing any opinion in one way or the other in respect of the subject matter, at this stage, simpliciter directs the Third Respondent / Tamil Nadu Slum Clearance Board to look into the grievance of the Petitioner with all seriousness and earnestness with reference to the relief sought

for by him in the Writ Petition and to redress the same within a period of four weeks from the date of receipt of a copy of this Order. In case, if the Third Respondent/ Tamil Nadu Slum Clearance Board comes to a definite conclusion that the Fourth Respondent has made an encroachment in between Plot Nos.58 and 59, 15th Cross Street, C.S. Colony, Koondu Veedu, Indira Nagar, Chennai - 600 020, then, it is open to the Third Respondent/Tamil Nadu Slum Clearance Board to remove the encroachment in question, with the assistance of Law Enforcement Machinery/Police to make the 'Lane' hassle free for usage of general public. If any enquiry requires to be conducted by the Third Respondent, that can be conducted by the Third Respondent/Tamil Nadu Slum Clearance Board, by issuing necessary prior Notice to the Petitioner as well as the Fourth Respondent and after hearing their respective views, is to pass Final Order touching upon the aspect of encroachment made by the Fourth Respondent and the Third Respondent shall pass the Final Order in a speaking manner adverting to all the factual and legal pleas raised by the Petitioner and the Fourth Respondent by adhering to the Principles of Natural Justice. In any event, the said Order is to be passed within the time adumbrated by this Court. The Petitioner as well as the Fourth Respondent are directed to lend their assistance and unstinted co-operation to the Third Respondent in regard to the completion of Enquiry and for passing a complete and comprehensive Order, so as to give a quietus in the subject matter in issue.

11. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

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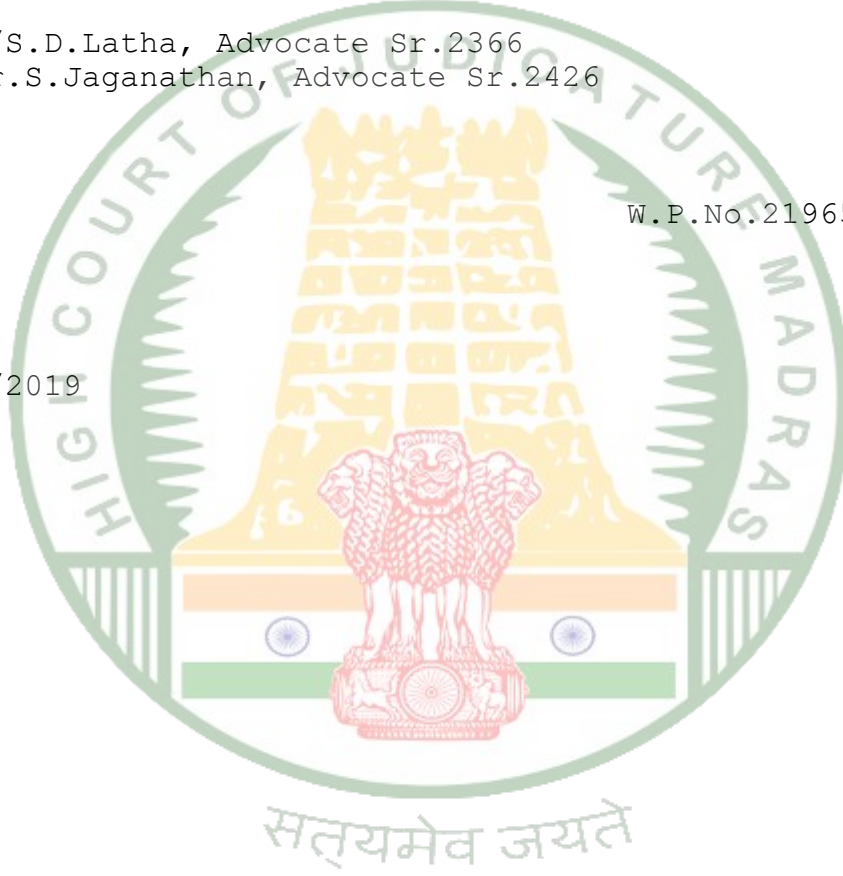
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+1cc to M/S.D.Latha, Advocate Sr.2366
+1cc to Mr.S.Jaganathan, Advocate Sr.2426

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