

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2019

CORAM :
THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE
AND
The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.25521 of 2016

G.Jobai

.. Petitioner

Vs.

1.The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600 003.

2.The Area Engineer,
Division No.6,
Corporation of Chennai,
Ayanavaram,
Chennai - 600 023.

3.The Zonal Officer/Zone VIII,
Corporation of Greater Chennai,
No.36b, Pulla Avenue,
Shenoy Nagar,
Chennai - 600 030.

4.Shanthi

5.Sankar

6.R.Viji

सत्यमेव जयते

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorarified mandamus calling for the records of the 3rd respondent in Z.O.VIII.C.No.2268/2016 and quash his order dated 22.03.2016 and consequently, direct him to re-enquire into the matter as per orders passed in W.P.No.20947 of 2015.

For Petitioner : Mr.V.V.Sairam

For Respondents : Mr.R.Arunmozhi (R1 to R3)
R6 - no appearance

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 Certiorarified Mandamus calling for the records of the 3rd respondent dated 22.03.2016 and to quash the same and consequently, direct him to re-enquire into the matter as per orders passed in W.P.No.20947 of 2015.

2.The petitioner has already filed a Writ Petition in W.P.No.20947 of 2015 praying for a direction to the authorities of the Corporation of Chennai to demolish the encroached road portion occupied by the respondents 4 to 6 herein and this Court, by order dated 23.07.2015, directed the respondents 1 & 2 to consider the petitioner's representation dated 27.05.2015 in respect of removal of the alleged encroachment. Thereafter, the 3rd respondent viz., the Zonal Officer, Corporation of Chennai passed the impugned order dated 22.03.2016 wherein he has specifically stated that S.No.7 alone belongs to Palayakaran Street and the petitioner and respondents 4 to 6 are in T.S.No.21, Block No.25 of Ayanavaram Village which belongs to private persons and does not come under the purview of Corporation of Chennai and specifically stated that it is a private property. Aggrieved over the order dated 22.03.2016, the petitioner has filed the above Writ Petition.

3.When it is the specific case of the petitioner that the 6th respondent had encroached the land belonging to the Corporation of Chennai and when the Corporation of Chennai itself disowns the land and say that the land belongs to some third parties, the petitioner cannot still say that the private respondents had encroached the land belonging to the Corporation of Chennai.

4.The 6th respondent also filed a counter wherein she has stated that she filed a suit in O.S.No.853 of 2013 seeking for demolition of the building constructed by the Writ Petitioner and his son and for permanent injunction restraining them from interfering with the peaceful possession and enjoyment of her property and the said suit was decreed in her favour, directing the Corporation of Chennai to demolish the property belonging to the petitioner. Thereafter, the 6th respondent also filed an Execution Petition in E.P.No.1740 of 2018 and the same is pending. In the meanwhile, the Corporation authorities issued de-occupation notice to the petitioner, which was challenged by the petitioner's son in W.P.No.34627 of 2018 and the same was dismissed by this Court on 27.12.2018.

5.The 3rd respondent in his counter has stated that T.S.No.21, Block No.25 of Ayanavaram Village belongs to private persons and does not come under the purview of the Corporation of Chennai and there is no encroachment in the Corporation property by the respondents 4 to 6.

6.When the Corporation has specifically stated that the respondents 4 to 6 have not encroached the land belonging to the Corporation and that the land in question is a private property belonging to some third parties, we are not inclined to entertain the Writ Petition. Accordingly, the same is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner,
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Chennai - 600 030.

+2ccs to Mr.K.Manikandan, Advocate, S.R.No.10043

W.P.No.25521 of 2016

SV(CO)
rrs 05/03/2019

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