

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.A.No.2117 of 2019

and

C.M.P.No.14301 of 2019

M/s.Chennai Garr Tech Pvt. Ltd.,
No.31/32, Nadhamuni Street,
Naduvakarai, Anna nagar,
Chennai 600 040.

Appellant

Versus

1. M/s.SCL Property Holdings Ltd.,
(Formerly SHL Property Holdings Ltd.)

Represented herein by its
Authorized Signatory,
having its Office at
No.9, Cathedral Road,
Chennai 600 086.

2. The Tahsildar,
Sholinganallur Taluk,
Old Mahabalipuram Road,
Sholinganallur, Chennai District.

3. Village Administrative Officer,
Seevaram Village, Perungudi,
Panchayat Road, Sholinganallur Taluk,
Chennai District.

4. Office of the Sub Registrar,
Kazura Gardens, East Coast Road,
Neelankarai, Chennai 600 041.

Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 27.6.2019 in W.M.P.No.17397 of 2019 in W.P.No.17985 of 2019 passed by this court.

W.M.P.No.17397 of 2019:

Petition praying that in the Circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to pass an interim stay of the impugned order passed by

the 1st Respondent dated 29.05.2019 bearing No. Na.Ka.No. 1417/2019 Aa1.

W.P.No.17985/2019:

Pleased to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent culminating in the order bearing No. Na Ka No. 1417/ 2009/ Aa1 dated 29.5.2019 quash the same and all actions taken pursuant thereto thereby restoring the name of the petitioner in Patta bearing No.1114 in respect of the property situate at Survey No. 38/2A2 in Seevaram Village Sholinganallur Taluk Chennai District of an extent of 0.81.00 ha. (2 Acres) and to consequently restrain the 3rd respondent its men,agents and servants and/or any person claiming any right through and/or under them from in any manner dealing with encumbering conveying or otherwise creating any third party rights over the said property and pass further and/or other orders as this Hon'ble Court may deem fit and proper in the circumstances of this case.

For Appellant : Mr.S.Sathiaseelan
For R1 : Mr.S.Raghunathan
For RR2 and 3 : Mr.V.Anandhamurthy, AGP
For R4 : Mr.T.M.Pappiah,
Special Government Pleader

JUDGMENT

(Judgment of the court was made by Dr.VINEET KOTHARI, J.)

The intra-court Appeal has been filed by the Appellant M/s.Chennai Garr Tech Private Limited against the interim order passed by the learned Single Judge dated 27.6.2019 in W.M.P.No.17397 of 2019 in W.P.No.17985 of 2019, by which the learned Single Judge in para 2 of the impugned order has passed the following order:-

"2. The Learned Senior Counsel appearing for the Petitioner as well as the Learned Counsel for the Third Respondent submit that there have been rival claims of title to the property between the parties. According to the Learned Senior Counsel appearing for the Petitioner, the indisputable fact that yet remains is that the patta had stood in the name of the Petitioner all along till the impugned order had been passed. In that view of the matter, there shall be an order of interim stay of the impugned order till the next hearing. However, it is made clear that neither the Petitioner nor the Third Respondent shall create any encumbrance or third party interests in respect of the property situated at Survey

No.38/2A2 in Seevaram Village, Sholinganallur Taluk, Chennai District of an extent of 0.81.00 ha. (2 Acres) without the prior permission of this Court."

2. The learned counsel for the Appellant, Mr.S.Sathiaseelan urged before us that against the concurrent findings of the Trial Court and the First Appellate Court, a Second Appeal has been filed by M/s.B.R.R.Holdings Private Limited and 3 others and the learned Single Judge ought not to have passed the said interim order at the threshold and therefore, the said order deserves to be interfered with.

3. Mr.A.L.Somayaji, learned Senior Counsel appearing for Respondent No.1, viz., M/s.SCL Property Holdings Limited, however, submitted that the said order has been passed to protect the property subject to the result of the Writ Petition and the Writ Petition is still pending before the learned Single Judge.

4. Mr.P.J.Rishikesh, learned counsel appearing for M/s.B.R.R.Holdings Private Limited, submitted that his W.P.No.22194 of 2019 has also been tagged with the present Writ Appeal No.2217 of 2019.

5. Having heard the learned counsel for the parties, we are of the opinion that the impugned interim order dated 27.6.2019 does not require any interference by this court in the present Writ Appeal as the interim order is passed to protect the property in question from creation of any further third party rights and therefore, it does not cause any prejudice to any parties. The parties are free to raise all their contentions before the learned Single Judge only in the Writ Petitions pending before the learned Single Judge.

6. Therefore, we are inclined to dismiss the present Writ Appeal and the connected Miscellaneous Petition filed therein and accordingly, they are dismissed. We remit back the Writ Petitions in W.P.No.17985 and 22194 of 2019 listed on our Board to the learned Single Judge with a request to decide the Writ Petitions as expeditiously as possible. No costs.

s/d-

Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

ssk.

To:

1. The Tahsildar,
Sholinganallur Taluk,
Old Mahabalipuram Road,
Sholinganallur, Chennai District.
2. Village Administrative Officer,
Seevaram Village, Perungudi,
Panchayat Road, Sholinganallur Taluk,
Chennai District.
3. Office of the Sub Registrar,
Kazura Gardens, East Coast Road,
Neelankarai, Chennai 600 041.
4. M/s.Chennai Garr Tech Pvt. Ltd.,
No.31/32, Nadhamuni Street,
Naduvakarai, Anna nagar,
Chennai 600 040.
5. M/s.SCL Property Holdings Ltd.,
(Formerly SHL Property Holdings Ltd.)
Represented herein by its
Authorized Signatory,
having its Office at
No.9, Cathedral Road,
Chennai 600 086.

Copy to

**The Section Officer
Writ Section
High Court, Madras 104.**

+1 CC to Mr.S.Raghunathan, Advocate sr 101215
+2 CCS to Mr.S.Sathiaselvan, Advocate sr 100947
+1 CC to The Govt. Pleader sr 102228.

WEB COPY

W.A.No.2117 of 2019

AD(CO)
SP(13/12/2019)