

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.9.2019

CORAM

THE HONOURABLE DR.VINEET KOTHARI, THE ACTING CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.28227 of 2019
and
W.M.P.No.27894 of 2019

Dilshad Sultana Petitioner

Versus

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai 600 003.
2. The Regional Joint Commissioner
(Central), Corporation of Chennai,
D.No.368, 2nd Cross Street,
Pulla Avenue, Shenoy Nagar,
Chennai 600 030.
3. The Executive Engineer,
Zone IX, Corporation of Chennai,
No.4, 4th Cross Street, Lake View Road,
Nungambakkam, Chennai 600 034.
4. The Area Engineer,
Corporation of Chennai,
No.2, Veerabathiran Street,
Komaleeswaranpet, Pudupet,
Chennai 600 002.

5. Mr.Farook Papa (Alias) Babu ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing Respondents 1 to 4 to take necessary action on petitioner's representation dated 10.4.2019 against the 5th Respondent for putting up unauthorised construction over the property bearing Old No.25 New New 55 Subedar Hussain Street, Royapettah, Chennai 600 014.

For petitioner : Ms.S.Revathi

For R1 to R4 : Dr.C.Ravichandran

ORDER

(Order of the court was made by Dr.VINEET KOTHARI, ACJ.)

The grievance of the Petitioner in this Writ Petition is that Respondent No.5, Mr.Farook Papa (Alias) Babu, residing at No.1, Gafoor Sahib, 1st Lane, Ice House, Chennai 600 14 is raising a construction in the manner which is likely to affect the easementary rights of the Petitioner.

2. The Petitioner further submits that he has made a representation to the Authority concerned viz., Respondent No.4, The Area Engineer, Corporation of Chennai, Pudupet, Chennai and in the absence of any response from them, the Petitioner has approached this court by way of present Writ Petition.

3. Having heard Ms.S.Revathi, learned counsel for the Petitioner and Dr.C.Ravichandran, learned counsel for Respondents 1 to 4/Corporation of Chennai, we are satisfied that several questions of fact are yet to be determined as to whether the construction in question has been put up by obtaining due approval from the Authorities concerned. Further, such question of facts has to be established by the Petitioner which could be conveniently done in Civil Proceedings before the competent Civil Court.

4. In these circumstances, we are of the opinion that the present Writ Petition deserves to be disposed with a direction to Respondent No.4 to dispose of the representation dated 10.4.2019 after affording an opportunity of hearing to the Petitioner. Accordingly, the Petitioner is directed to appear before Respondent No.4 for the first instance on 14.10.2019 and

Respondent No.4 is directed to decide the representation within a period of 3 weeks thereafter. If any adverse order is passed, the Petitioner is free to avail the remedy by way of Civil Suit in competent Civil Court. With this observation, the Writ Petition is disposed. No costs. The connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Commissioner,
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Chennai 600 002.

+1cc to Mr.R.Narendran, Advocate Sr.82588
+1cc to Dr.C.Ravichandran, Advocate Sr.82096

W.P.No.28227 of 2019

rk[co]
srg 04/10/2019