

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.11.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE N.SESHASAYEE

WP.No.30866 of 2019 & WMP.Nos.30958 & 30962 of 2019

M/s.Kathuribai Magaleer Manram
rep.by its Secretary Mrs.N.Chandra
Door No.1, [Old], New No.2, Veeda
Nagaram Chinmaya Nagar Stage II
Opposite to Chinamaya School
and Backside of the Hariharam Temple
Chennai 600 092.

Petitioner

Versus

1. The Assistant Commissioner
Corporation of Greater Chennai
Zone X, Regional Office-Central,
2nd Cross Street, Pulla Avenue East
Shenoy Nagar, Chennai 600 030.
2. The Superintending Engineer/Central
Regional Office-Central, 2nd Cross Street
Pulla Avenue East, Shenoy Nagar,
Chennai 600 030.
3. The Regional Deputy Commissioner
of Greater Chennai Corporation,
Regional Office-Central, 2nd Cross Street
Pulla Avenue East, Shenoy Nagar,
Chennai 600 030.
4. The District Revenue Officer
Greater Chennai Corporation
Rippon Building, Chennai.
5. The Commissioner of Greater Chennai
Corporation, O/o.The Commissioner of
Greater Chennai Corporation, Rippon
Building, Chennai.

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Respondents

Prayer:-

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records relating to the impugned notice issued by the 1st respondent under section 220 read with section 222 of the Chennai City Municipal corporation Act, 1919 [Act IV of 1919], Zone No.10/Encrh/Dn127/12378/2019 dated 30.09.2019 and quash the same and consequently to direct the respondent to follow due process of law.

For Petitioner : Dr.G.Babu

For R1 to R5 : Dr.C.Ravichandran

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

- (1) By consent, the writ petition is taken up for final disposal. Dr.C.Ravichandran, learned Standing counsel accepts notice on behalf of the respondents 1 and 2 and Mr.P.S.Ganesh, learned Standing Counsel accepts notice on behalf of the 3rd respondent.
- (2) The petitioner claims to be the Secretary of Kasthuribai Magaleer Mandram bearing Old Door No.1, New No.2, Veeda Nagar, Murugan Street, Chinmaya Nagar Stage-II, Chennai-92 and according to her, the petitioner - Organisation came into existence in the year 1989 with the primary objective of promoting non formal education among the slum children and orphans with support Guild of service aids and the petitioner - Organisation is also taking care of 600 women and 350 children who are economically backward and from the downtrodden society.
- (3) It is conceded by the petitioner in paragraph No.5 of the affidavit that the said Organisation had occupied 780 sq.ft., on the land classified as Government Poramboke land in S.No.13 and they had put up a superstructure and also obtained electricity service connection and the said superstructure is also subjected to statutory levies. The services of the elected representatives were also roped in and the petitioner - Organisation continue to promote the non-formal education and their area of operation also covers nearly 40 slums.
- (4) The learned counsel for the petitioner would submit that to the shock and surprise, they had been issued with the impugned notice dated 30.09.2019 by the 1st respondent by invoking Section 220 read with Section 222 of the Chennai City Municipal Corporation Act, 1919, and challenging the legality of the notice, the petitioner, being the social Organisation, is

constrained to approach this Court by filing the present writ petition.

(5) It is the submission of the learned counsel for the petitioner that the petitioner is in occupation of the Government Poramboke land for nearly 3 decades and also put up a superstructure and is doing social service to the children belonging to the economically backward families and they also belong to downtrodden community and that apart, they are also imparting quality education to the children from the nearby slum areas and taking into consideration of the said fact, this Court may pass appropriate orders, protecting the interest of the petitioner - Organisation/Institution.

(6) Per contra, Dr.C.Ravichandran, learned Standing counsel appearing for the respondents 1 to 5 would submit that even as per the averments in the writ petition, the petitioner / Institution has encroached upon the Government Poramboke land / public land and has also put up a superstructure unauthorisedly and taking note of the above facts and circumstances, the impugned notice came to be issued and hence, prays for dismissal of this writ petition.

(7) This Court has considered the rival submissions and also perused the materials placed before it.

(8) It is relevant to extract Sections 220 and 222 of the Chennai City Municipal Corporation Act, 1919:-

'220. Prohibition against obstructions in streets.-No one shall build any wall or erect any fence or other 5[obstruction or projection or make any encroachment] in or over any street 6[or any public place, the control of which is vested in the corporation] except as hereinafter provided.

222. Removal of encroachments.-(1) The commissioner may by notice require the owner or occupier of any premises to remove or alter any projection, encroachment or obstruction (other than a door, gate, bar, or ground floor window) situated against or in front of such premises and in or, over, any street 1[or any public place, the control of which is vested in the corporation].

(2) If the owner or occupier of the premises proves that any such projection, encroachment or obstruction has existed for a period

sufficient under the law of limitation to give him a perspective title 2[or where such period is less than thirty years, for a period of thirty years] or that it was erected with the consent of any municipal authority duly empowered in that behalf, and that the period, if any, for which the consent is valid has not expired, the corporation shall make reasonable compensation to every person who suffers damage by the removal or alteration of the same.''

(9) This Court, taking into consideration, the above facts and circumstances of the case and without going into the merits of the claim projected by the petitioner in this writ petition, permits the petitioner to submit their response with supporting documents to the impugned notice, which shall be treated as a Show cause notice within a period of four weeks from the date of receipt of a copy of this order and upon receipt of such response from the petitioner, the 3rd respondent shall afford an opportunity of personal hearing to the Secretary of the petitioner / Institution - Deponent of the affidavit and consider the said representation as well as the personal representation and pass appropriate orders in accordance with law within a further period of eight weeks thereafter and communicate the decision taken, to the petitioner - Organisation/Institution and till such time, shall defer further decision in terms of the impugned notice dated 30.09.2019. It is made clear that till the disposal of the representation to be submitted by the petitioner, the petitioner / Institution shall not create any third party rights in respect of the land and superstructure in question.

(10) The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

सत्यमेव जयते
Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

AP
To

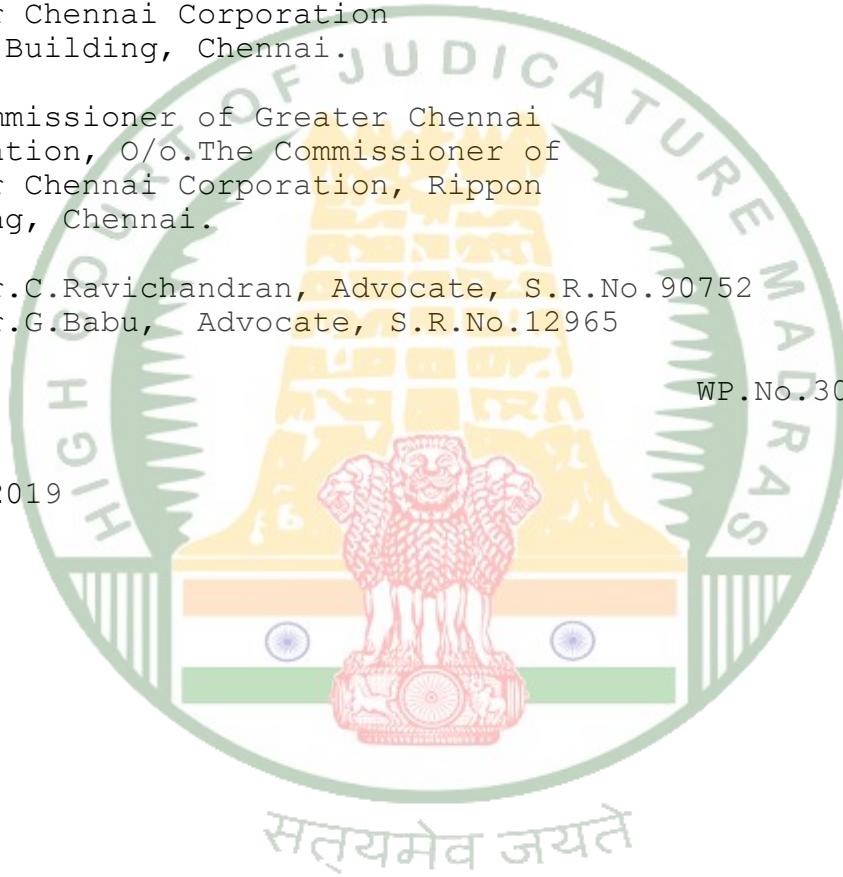
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+1cc to Dr.C.Ravichandran, Advocate, S.R.No.90752
+2cc to Dr.G.Babu, Advocate, S.R.No.12965

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RSI (CO)
CS/11/12/2019



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