



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.05.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

and

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.[MD]No.11740 of 2019

and

W.M.P.[MD]No.8896 of 2019

K.Suresh

: Petitioner

Vs.

The Executive Engineer
cum Administrative Officer,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai - 625 016.

: Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, calling for the records pertaining to the impugned Letter No.MH-10/2859/16-(2) dated 16.04.2019 given by the respondent to the petitioner and quash the same.

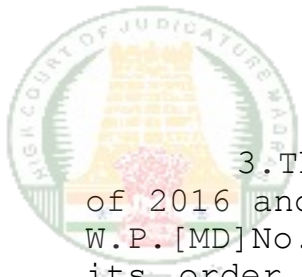
For Petitioner : Mr.Kannan
for Mr.M.Muthukumar
For Respondent : No appearance

O R D E R

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

Heard the learned Counsel for the petitioner.

2.The case of the petitioner is that the property bearing Door No.L3/30, was originally allotted to one Manikanda Sundaram and after the demise of the said Manikanda Sundaram, his wife namely, Vijayalakshmi, sold the property in favour of the petitioner and his father on 02.02.2011 and from 02.02.2011, the petitioner is enjoying the property without any hindrance. While such being the position, one Muthuraj, owner of the adjacent property is disturbing the enjoyment of the petitioner's property with regard to the common pathway by saying that the petitioner has committed an encroachment.



3.The said Muthuraj filed a Writ Petition in W.P.[MD]No.11612 of 2016 and his mother one Pitchaimani also filed a Writ Petition in W.P.[MD]No.11613 of 2016, against the petitioner. This Court, by its order dated 08.09.2017 directed the respondent to remove the encroachment, if any. The respondent herein, after measuring the property, found out that the petitioner has encroached the common pathway and after considering the explanation given by the petitioner, the respondent passed the impugned order dated 16.04.2019 and directed the petitioner to remove the encroachment. Challenging the same, the instant Writ Petition has been filed.

4.We have perused the impugned order. In the impugned order, the respondent has categorically held that only after the Assistant Engineer visited the premises and found the petitioner encroaching the common pathway by putting up staircase in violation of the allotment condition, he directed the petitioner to remove the encroachment. Hence, we do not find any infirmity in the said order.

5.Accordingly, the Writ Petition is dismissed. However, we are inclined to issue a direction to the respondent to remove the encroachment made by the petitioner, after giving opportunity to the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Vacation Officer

/ True Copy /

Sub Assistant Registrar(CS)

MR

To

The Executive Engineer
cum Administrative Officer,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai - 625 016.

+1 CC to M/s.M.MUTHUKUMAR, Advocate (SR-65303[F] dated 08/05/2019)

Order made in
W.P.[MD]No.11740 of 2019