

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Writ Petition No.5235 of 2019

B.Dhanasekaran
S/o.G.Balakrishnan

... Petitioner

Vs

1. The Commissioner,
Kanchipuram Municipality,
Annai Indira Gandhi Salai,
Kanchipuram - 631 502.

2. The District Collector,
Kanchipuram District.

3. The Tahsildar,
Kanchipuram Taluk,
Kanchipuram District.

4. Baby Ammal
W/o.Babu

5. Thayarammal
W/o.Gubendiran

6. Babu
S/o.Jameel

7. Muniyandi

8. Karunakaran
S/o.Rathinam

9. Gopi
S/o.Rajendiran

10.Vasu alias Manickavasagam
S/o.Loganathan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing first respondent to remove the encroachments as per first respondent's reply in Na.Ka.No.735/05/F-2 dated 28.11.2006.

For Petitioner : Mr.R.Anbalagan
For Respondents: Mr.G.B.Rajesh [R1]
Mr.V.Shanmugasundar
Special Government Pleader [R2 & R3]
No appearance [R4 to R10]

O R D E R

[Order of this Court was made by R.SUBBIAH, J]

The present Writ Petition has been filed seeking issuance of a Writ of Mandamus directing first respondent to remove the encroachments as per first respondent's reply in Na.Ka.No.735/05/F-2 dated 28.11.2006.

2. Heard learned counsel for petitioner and learned Special Government Pleader appearing for respondents 2 and 3.

3. Learned counsel for petitioner submits that petitioner is the owner of the house situated at Kanchipuram District, within the jurisdiction of Sub-Registrar IV, Kanchipuram Taluk, I Division of Kanchipuram Town, in South Mada Street, South to Street, West to Gokulam Street alias Gokulam Street, North to Municipal Narasam and East to Kista Pillai House, within 1-A, Town Survey No.598, as per New Sub Division No.598/4B, measuring East to West breathwise on Northern side 23-1/2 feet, Southern side 28 feet, North to South Lengthwise on Western side 137 feet, Eastern side 138 feet, as per the Town Field Register 3784, bearing Old Door No.1A/1. Petitioner purchased the above said property from the Legal Representatives of one Subramani Mudaliar by virtue of registered Sale Deed dated 19.03.2003. Petitioner's house is situated at the corner of Gokulam Street and South Mada Street. It is the grievance of petitioner that respondents 4 to 10 have encroached the road on the northern side of South Mada Street. Hence, petitioner preferred a complaint dated 23.01.2006 to second respondent/District Collector, Kanchipuram, for removal of encroachments. Pursuant thereto, first respondent has given a reply in Na.Ka.No.735-66 F-2 dated 17.03.2006, Kanchipuram Municipality office, stating that notices were issued to the encroachers and steps shall be taken u/s.182(4), 183 of the Tamil Nadu District Municipality Act, 1920. A final notice dated 28.11.2006 has also been issued to remove the encroachments. Petitioner preferred a complaint on 16.10.2020 to the Sub-Inspector of Police, Vishnu Kanchi Police Station in respect of encroachments. Petitioner has also filed

O.S.No.300 of 2012 on the file of learned Additional District Munsif, Kanchipuram, against respondents 1 to 3, 5 and 10 and the said suit was decreed. But, no direction was given to remove the encroachments. Thereafter, petitioner filed petitions under the Right to Information Act. Since no effective steps have been taken, the present petition has been filed seeking the aforesaid relief.

4. Learned counsel appearing for first respondent, relying on the counter of first respondent, submits that after issuance of final notice to the encroachers, petitioner filed a suit in O.S.No.300 of 2012 on the file of learned Additional District Munsif, Kancheepuram. The said suit was decreed. But, no direction was issued to remove the encroachments. Due to pendency of the above suit, the Municipality was not able to take steps to remove the encroachments. Learned counsel further submits that the Municipality is ready to issue a fresh notice to the encroachers under the provisions of Tamil Nadu District Municipalities Act and proceed further in accordance with law. The said submission is recorded.

5. Considering the submissions made, this Court directs first respondent to issue a fresh notice, as undertaken by the Municipality, to the encroachers within a period of two weeks from the date of receipt of this order and after affording an opportunity of personal hearing to the petitioner as well as to the necessary parties, pass orders on merits and in accordance with law with regard to removal of encroachment. The entire exercise shall be completed within a period of eight weeks from the date of receipt of this order.

The Writ Petition is disposed of with the above direction. No costs.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

gm
To

1.The Commissioner,
Kanchipuram Municipality,
Annai Indira Gandhi Salai,
Kanchipuram - 631 502.

2.The District Collector,
Kanchipuram District.

3.The Tahsildar,
Kanchipuram Taluk,
Kanchipuram District.

+1 CC to Mr.R.Anbalagan, Advocate sr 4546.

+1 CC to Mr.G.B.Rajesh, Advocate sr 5207.

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MP (CO)
SP (24/02/2020)



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