

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.17020/2020 & WMP.No.21105/2020

R.Lakshmi

.. Petitioner

Versus

1.The Corporation of Chennai
rep.by its Commissioner
Corporation of Chennai.
Rippon Buildings
Chennai 600 003.

2.The Regional Deputy Commissioner [Central]
No.36-B 2nd Cross Street, Pulla Avenue
Shenoy Nagar, Chennai 600 030.

3.The Zonal Officer
zone-7 [Ambattur]
Corporation of Chennai
No.536, Chennai-Tiruvallur Highway
Ambattur, Chennai 600053.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the proceedings relating to the impugned notice dated 01.10.2020 made in Z.O.VII.C.No.2772/2020 issued u/s.220 read with 222 of the Chennai City Municipal Corporation Act, 1919, on the file of the 3rd respondent and quash the same.

For Petitioner : Mr.A.K.Sriram for Mr.V.Rajesh

For Respondents : Mr.K.Raja Srinivas
Standing counsel for RR1 to 3

ORDER

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

(1) By consent, the writ petition is taken up for final disposal and is disposed of by this order.

(2) Mr.K.Raja Srinivas, learned Standing counsel accepts notice on behalf of the respondents.

(3)The petitioner and her husband claims to be in possession of the land and superstructure at Old Dor No.56, New Door No.25A, New Street, Karukku, Ambattur, Chennai-53 and they are residing in the said property over 45 years and it is also assessed to statutory levies and patta has also been issued by the Zonal Deputy Tahsildar, Ambattur Taluk.

(4)The learned counsel for the petitioner would submit that recognising the possession and occupation apart from levying statutory levies upon the land and superstructure, they have been issued with voter ID Cards, Aadhar Cards and the benevolence of the Government in the form of freebies have been extended to them from time to time.

(5)The primordial submission made by the learned counsel for the petitioner is that to the shock and surprise of the petitioner, the 3rd respondent has issued the impugned notice under Section 220 read with 222 of the Chennai City Municipal Act, 1919. It is the submission of the learned counsel for the petitioner that the said notice is not preceded by any show cause notice and if semblance of opportunity would have been provided, the petitioner would have established the fact of her long possession and enjoyment as well as recognition of her rights and hence, prays for appropriate orders.

(6) Per contra, Mr.K.Raja Srinivas, learned Standing counsel appearing for the respondents on instructions, would submit that since the impugned notice came to be issued by resorting to due process of law, the petitioner cannot express any grievance and 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 Section 222 of the Chennai City Municipal Act, 1919:-

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 groundfloor 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) Sub-section [2] of Section 222 of the said Act, provides a window in the form of an opportunity to the owner or the occupier to remove the existence in terms of obstruction has existed for a period sufficient under the law of limitation to give him a perspective title. In the light of the said provision, the petitioner is at liberty to submit a detailed representation / response by enclosing relevant and authenticated documents to the 3rd respondent within a period of two weeks from today and upon receipt of the same, the 3rd respondent is directed to consider and dispose of the said representation objectively and also on merits and in accordance with law and pass appropriate orders within a further period of six weeks thereafter and communicate the decision taken, to the petitioner and till such time, shall defer further action in terms of the impugned notice dated 01.10.2020.
- (10) The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

1. The Commissioner,
The Corporation of Chennai
Corporation of Chennai.
Rippon Buildings
Chennai 600 003.
2. The Regional Deputy Commissioner [Central]
No.36-B 2nd Cross Street, Pulla Avenue
Shenoy Nagar, Chennai 600 030.
3. The Zonal Officer
Zone-7 [Ambattur]
Corporation of Chennai
No.536, Chennai-Tiruvallur Highway
Ambattur, Chennai 600053.

+1cc to Mr.V.Rajesh, Advocate, S.R.No. 39143

WP.No.17020/2020