

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2020

CORAM :

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND

THE HONOURABLE MR. JUSTICE P. RAJAMANICKAM

W.P.Nos.19146, 19149, 19151 & 19153 of 2020
and

W.M.P.Nos.23716, 23718, 23722 & 23725 of 2020

Roja Amma

... Petitioner
in all writ petitions

Vs.

1.The District Collector/Appellate Authority,
Chennai District, Singaravellar Maligai,
Rajaji Salai, Chennai - 600 001.

2.The Assistant Executive Engineer,
Public Works Department,
Coovam Drainage Sub Division,
Chepauk, Chennai - 600 005.

... Respondents
in all writ petitions

Common Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the 2nd respondent's notice dated 28.11.2020 to the petitioner and quash the same and consequently direct the 1st respondent to pass orders in the appeal and stay petition dated 27.03.2019 against the 2nd respondent's order dated 22.01.2019 under the Land Encroachment Act, 1905, within the time prescribed by this Honble Court.

For Petitioner : Mr.K.A.Ravindran
for Mr.K.Sakthivel
in all writ petitions

For Respondents: Mr.M.Elumalai
Additional Government Pleader
in all writ petitions

C O M M O N O R D E R

(Order of the Court was made by M. SATHYANARAYANAN, J.)
(Through Video Conferencing)

The petitioner would state that, in respect of the land comprised in Old Survey No.155/1 part, new T.S. Nos.5, 6, 7 and 8, Block No.34, Koyambedu Village, now Aminjikarai Taluk, Chennai District, TSRL patta was issued during June, 2009, and the landed properties have also been classified as "Grama Natham House Sites" in Revenue records in favour of his son, namely, Mohammed Rafiq, and the superstructures put up thereon are also subject to statutory levies.

2.During the course of arguments, when this Court posed a pertinent query to the learned counsel appearing for the petitioner as to whether the superstructures put up on the land allegedly classified as "Grama Natham" are authorised/unauthorised/deviated, for want of instructions, the learned counsel appearing for the petitioner is unable to answer the said query.

3.The primordial submission made by the learned counsel appearing for the petitioner is that, statutory appeal, dated 27.03.2019, along with petitions for stay, have been preferred before the 1st respondent and on account of the pendency of the same, it is not open to the 2nd respondent to proceed further.

4.Per contra, Mr.M.Elumalai, learned Additional Government Pleader, who accepts notice on behalf of the respondents, would submit that, admittedly, the petitioner had encroached upon a part of Coovum river and put up wholly unauthorised construction, and since action has been taken strictly in accordance with law, it is not open to the petitioner to make any grievance.

5.This Court has carefully considered the rival submissions and also perused the materials placed before it.

6.A perusal and consideration of the arguments advanced by the learned counsel appearing for the petitioner, coupled with the materials available on record, would prima facie disclose that there is no proof as to the filing and entertainability of the appeal, however, the learned counsel appearing for the petitioner, on instructions, would submit that the appeal has been filed and the same has been entertained. This Court, taking note of the above facts and circumstances, without going into the merits of the claim as projected by the petitioner

either in the appeal, dated 27.03.2019, or in the present writ petition, directs the 1st respondent to entertain the appeal filed by the petitioner, if the papers are otherwise in order, and take up the petition for stay at the first instance and give a disposal, on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order/uploading of this order in the website, and till such time, the 2nd respondent shall defer further decision in terms of the impugned notice. It is made clear that the petitioner, till the disposal of the appeal by the 1st respondent, shall not create any third party right in respect of the land and superstructures in question.

7.It is also open to the 1st respondent to accord priority and give a disposal to the appeal itself, on merits and in accordance with law, as expeditiously as possible.

These writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The District Collector/Appellate Authority,
Chennai District, Singaravellar Maligai,
Rajaji Salai, Chennai - 600 001.

2.The Assistant Executive Engineer,
Public Works Department,
Coovam Drainage Sub Division,
Chepauk, Chennai - 600 005.

+1cc to M/s.K.Sakthivel, Advocate Sr.41760

W.P.Nos.19146, 19149,
19151 & 19153 of 2020

kv[co]
srg 08/01/2021