

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27.01.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.4004 of 2019

M.Parvathy

... Appellant

vs.

1.The Commissioner,
Chennai Corporation,
Rippon Buildings,
Chennai-600 003.

2.The Revenue Officer,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

... Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 24.6.2019 in W.P.No.17500 of 2005 on the file of this Court.

Prayer in W.P.No.17500 of 2005:

Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records of the respondents particularly that of the 1st respondent in L & E.D.C. No. LE4/2491/56 dated 9.7.2004 and the consequential proceedings of the 2nd respondent in 2 O. IV R.D.G. No.R3/510/05 dated 9.5.2005 and quash the same as illegal unlawful without jurisdiction and against principles of natural justice and consequently forbear the respondents 1 and 2 their men agents servants etc., from in any manner disturb the petitioners peaceful possession and enjoyment over the property situate at No.52, Subbarayan 2nd St., Nammalvarpet, Chennai -600 012.

For Appellant : Mr.T.S.Rajmohan

For Respondents : Ms.Karthika Ashok

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Heard learned counsel for the appellant.

2. Learned counsel for the appellant contends that as a matter of fact the proceedings dated 11th September 2001 do indicate that for the purpose of regularizing the occupation of the land, the respondents themselves had called upon the appellant to comply with certain conditions and therefore in the said background and further in the background of the decree passed in O.S.No.6315 of 1985, the appellant cannot be described as an unauthorized occupant. These aspects, according to learned counsel for the appellant, have been overlooked by the learned Single Judge and therefore the impugned judgment dismissing the writ petition filed by the appellant deserves to be set aside.

3. We have also heard learned counsel for the respondent Corporation and she has pointed out that the reason recorded by the learned Single Judge is to the effect that there is no subsisting lease in favour of the appellant and therefore any such claim based on the strength of the decree or on the basis of the proceedings dated 11th September 2001, cannot be converted into a declaration in favour of the appellant to continue to occupy the said premises. It has also been urged that the decree in O.S.No.6315 of 1985 is an ex parte decree and the relief prayed for was not to demolish the standing construction thereon. Any such decree, therefore, does not amount to declaration of the rights over the land to which the appellant has not been able to establish her rights.

4. We have considered the submissions raised and it is settled principle of law that no person can be deprived of his possession except otherwise than in accordance with law, however, the other side of the coin is no one can claim to remain in possession unauthorizedly and unabatedly unless there is a semblance of claim or any title over the property.

5. The learned Single Judge has categorically recorded that the appellant has not been able to establish any subsisting

lease and therefore in our opinion also if the appellant is claiming possession or any other right, a writ petition to that effect would not be maintainable, however without prejudice to the rights of the appellant to contest her claim before the appropriate forum. Accordingly, we see no reason to interfere with the judgment of the learned Single Judge in the light of what has been observed above.

The writ appellant is dismissed. No costs. Consequently, C.M.P.No.25114 of 2019 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Commissioner,
Chennai Corporation,
Rippon Buildings,
Chennai-600 003.
- 2.The Revenue Officer,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

+lcc to M/s.Karthikaa Ashok, Advocate Sr.5582

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W.A.No.4004 of 2019

ssv[co]
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