

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.Nos.4591 & 4600/2021 & WMP.Nos.5222 & 5230/2021

1.Mrs.M.Sarala
2.Mr.R.Narayanan
3.Mrs.T.Latha
4.Mr.M.Sekar
5.Mr.K.Gopi
6.Mrs.Arockia Mary .. Petitioners in WP.No.4591/2021

1.R.Arumugam
2.Mrs.Jayamala Mary
3.Mrs.Arul Mary
4.K.Ramachandran
5.Mrs.S.Samundeeswari
6.Mrs.Thulasi
7.V.Krishnakumar ..Petitioners in WP.No.4600/2021

Versus

1. The Regional Deputy Commissioner
Greater Chennai Corporation [Central]
Pulla Avenue, Shenoy Nagar,
Chennai - 30.
2. The Zonal Officer
Zone-X, Greater Chennai Corporation [Central]
No.117, NSK Salai, Kodambakkam
Chennai 600 024.
3. The Executive Engineer
Zone-X, Greater Chennai Corporation [Central]
No.117, NSK Salai, Kodambakkam
Chennai 600 024. .. Respondents in both WPs

Common Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 1st respondent to afford an opportunity of personal

hearing to the petitioners in pursuance to the notice dated 18.12.2020 issued u/s.220 read with section 222 of the Chennai City Municipal Corporation Act, 1919.

For Petitioners in
both Writ Petitions :Mr.V.C.Selvasekaran

For Respondents in
both Writ Petitions :Mr.R.Gopinath
Standing counsel

COMMON ORDER

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

- (1) By consent, the writ petitions are taken up for final disposal and are disposed of by this common order as the issue to be adjudicated is one and the same.
- (2) Mr.R.Gopinath, learned Standing counsel accepts notice on behalf of respondents 1 to 3.
- (3) The petitioners claim to be some of the residents of Mariappan Street, C.K.Nagar, Nesapakkam, Chennai-78 and they would aver among other things that they are having poor economic background and with great difficulty and out of savings, had purchased the respective properties measuring about 500 - 700 sq.ft., and thereafter, put up the superstructures.
- (4) The learned counsel for the petitioners would submit that the land comprised in S.No.389 [part] admeasuring to an extent of about 2 acres, was originally owned by one Natesan Naicker and thereafter, by virtue of inheritance and partition among the legal heirs a Deed of Partition came into being in the year 1938 in and by which, the legal heirs of Natesan Naicker had got divided the property by metes and bounds. It is the further submission of the learned counsel for the petitioners that on an earlier occasion, the respondents herein had issued notices to the petitioners during the year 2019 u/s.220 read with 222 of the Chennai City Municipal Corporation Act, 1919 [in short 'CCMC Act'] and in response to the said notices, the petitioners had also sent representations enclosing relevant documents and thereafter, the matter was not pursued and however, to the shock and surprise of the petitioners, they were issued with the impugned Notices dated 18.12.2020 by invoking section 220 read with 222 of CCMC Act, alleging that the petitioners had encroached and blocked the public road and thereby, causing inconvenience.
- (5) The learned counsel for the petitioners would further submit that in response to the said notices, a Legal Notice dated 12.01.2021 had also been sent and despite receipt and

acknowledgment and without affording any opportunity whatsoever, the respondents are proceeding further to evict the petitioners from their respective premises without recourse to due process of law and since they belong to lowest strata of the society and also having poor economic background and are having hand to mouth existence, prays for appropriate orders for protection of the interest of the petitioners.

(6) Per contra, Mr.R.Gopinath, learned Standing counsel would submit that since due process of law is being followed and also the petitioners had encroached upon the public road and also put up unauthorised structures, they are not expected to make any grievance as to the legal action being taken and prays for dismissal of these writ petitions with cost.

(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 Corporation 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 ground floor 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) This Court, taking into consideration the limited scope of prayer sought for by the petitioners in these writ petitions and without going into the merits of the claim projected by them through their Legal Notice, permits the petitioners to submit individual representations by enclosing relevant and authenticated documents including the document relating to the authorised/deviated/unauthorised structure put up by them to the 1st respondent within a period of three weeks from the date of receipt of a copy of this order / uploading of the order in the website and upon receipt of the same, the 1st respondent is

directed to consider the said representations in accordance with law and give a disposal within a further period of four weeks thereafter and communicate the decision taken to the petitioners and it is made clear that the petitioners, till the disposal of the representation by the 1st respondent, shall not create any third party rights in respect of the land and superstructures in question and respondents 1 to 3 shall also defer further decision in terms of the impugned notices till the disposal of the representation by the 1st respondent and communication of the same to the petitioners.

(10) The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

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+2ccs to M/s. R.Gopinath, Advocate, Sr.No. 13397 and 13393

WP.Nos.4591 & 4600/2021

PL (CO)

RMP (23/03/2021)