

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

WP.NO.5255 OF 2021

T.Sabitha
rep.by its Power Agent
Mr.D.Sambath

.. Petitioner

Versus

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.

2. The Executive Officer
Mangadu Town Panchayat
Mangadu, Chennai 600 122.

3. Mr.Ramadoss .. Respondents

Prayer:-

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 1st and 2nd respondents herein to take necessary and immediate enforcement action against the deviated and encroachment construction at Plot No.5-A and 5-B of A.R.Nagar, Mangadu Village, Chennai 600 122 comprised in Survey No.537/9, 537/10 and 537/11 as per the provisions of the Tamil Nadu Urban Local Bodies Act, 1998 read with Rules 2000.

For Petitioner : Mr.Suresh, for
Mr.S.Ilamparithi

For R1 : M/s.P.Veena Suresh
Standing counsel

For R2 : Mr.V.Jayaprakash Narayan
Government Pleader

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) M/s.P.Veena Suresh, learned Standing counsel accepts notice on behalf of the 1st respondent and Mr.V.Jayaprakash Narayan, learned Government Pleader accepts notice on behalf of the 2nd respondent.
- (3) The deponent of the affidavit is the Power of Attorney of his daughter - the petitioner herein, is a resident of Singapore and according to her, the vacant land bearing Plot No.6 measuring about 3042 sq.ft., comprised in S.No.537/9,10 & 11 at A.R.Nagar, which is an approved MMDA [CMDA] layout in Mangadu Village, Sriperumbudur Taluk, Kanchipuram District, was purchased by her daughter-principal, vide registered Sale Deed dated 08.11.2010 bearing Doc.No.12503/2010 and mutation has also been done and patta bearing No.3606 has also been issued in favour of the petitioner. It is the specific case of the petitioner that the 3rd respondent, who is the adjacent land owner of Plot NO.5, had encroached upon the land of the petitioner and also started putting up an unauthorised construction. The Power of Attorney of the petitioner, in this regard, has submitted representations to the 1st respondent, who in turn, vide communication dated 30.05.2020 bearing Letter No.EC/C-I,2420/2020, has forwarded the same to the 2nd respondent for appropriate orders. The Power of Attorney of the petitioner has also sent a legal notice dated 08.09.2020 to respondents 1 and 2 for taking appropriate action and also sent a legal notice dated 10.09.2020 to the 3rd respondent and three others, pointing out the said illegality/infracton.
- (4) The learned counsel for the petitioner has drawn the attention of this Court to the materials placed and would submit that the 3rd respondent, in response to the said legal notice, has sent his Reply/response dated 18.09.2020, stating among other things that he is always ready and willing to measure his property along with the property of the petitioner and in the light of the fact that the private respondent has not only encroached upon the petitioner's land, but also started putting up unauthorised structure, prays for appropriate orders as the representations submitted in this regard, has failed to invoke any kind of response.
- (5) The Court heard the submissions of M/s.P.Veena Suresh, learned Standing counsel and Mr.V.Jayaprakash Narayan, learned Government Pleader appearing for the 2nd respondent and also perused the materials placed before it.

(6) Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner/Power of Attorney of the petitioner, grants liberty to the petitioner/Power of Attorney of the petitioner to apply to the jurisdictional Tahsildar for survey and measurement of her land as well as the land of the 3rd respondent since the 3rd respondent, in his reply to the Legal Notice dated 10.09.2020, has expressed his inclination to go for survey of his land also and as and when such an application is received by the jurisdictional Tahsildar, he with the help of the jurisdictional Surveyor, after putting the petitioner as well as the 3rd respondent on notice, shall cause survey and inspection of their respective lands and depending upon the result of the same, the petitioner as well as the 3rd respondent are at liberty to work out their further remedies in accordance with law before the competent Forum.

(7) The writ petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.

2. The Executive Officer
Mangadu Town Panchayat
Mangadu, Chennai 600 122.

COPY TO:-

1 The Tahsildar
Mangadu Village,
Chennai 600122.

2. Mr.Ramadosh,
S/o.Vijayaraman,
No.6/88A, Jothi Nagar,
Iyyappanthangal Main Road,
Bharathipuram, Chennai-122.

+1cc to M/s.P.Veena Suresh, Advocate, S.R.No.14108

+1cc to Mr.S.Ilamparithi, Advocate, S.R.No.13983

+1cc to the Government Pleader, S.R.No.14879

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AK-II (CO)
CS/31/03/2021