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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2021

CORAM

THE HONOURABLE MR.JUSTICE R. MAHADEVAN

W.P.No.9920 of 2021 &
WMP.No.10534 of 2021

S. Adhilakshmi

... Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai 600 003.
2. The Assistant Commissioner,
Corporation of Chennai,
Adyar Zone (Ward No.112),
Muthulakshmi Salai, Adyar,
Chennai 600 020.
3. The Assistant Executive Engineer,
Velachery Zone,
61, Velachery Main Road,
Chennai 600 042.
4. Bhuvaneswari Nagar & VGP,
Selva Nagar Welfare Association,
No.51, VGP, Selva Nagar,
Velachery, Chennai 600 042.

..Respondents

Prayer: Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Mandamus directing the respondents 1 to 3 to consider the representation of the petitioner dated 12.11.2020 and restore the lands of the petitioner of an extent of 3020 sq.ft. comprised in Old Survey No.331/1 part 331/11 now as per computer survey No.331/12, T.S.No.17/2 of Block No.192 and T.S.No.33/4 of Block No.195 of Velachery Village, Guindy, Mambalam Taluk, Chennai to its original status.

For Petitioner : Mr. A.R.L. Sundaresan, Senior
Counsel for
Mrs.AL. Ganthimathi



For Respondents: Mrs. P.T.Ramadevi, Standing Counsel
for R1 to R3

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According to the petitioner, she purchased a property measuring to an extent of 5088 sq.ft., comprised in Old Survey No.331/1 Part, New Survey No.331/11 of Velachery Village, Guindy - Mambalam Taluk, Chennai by a registered sale deeds dated 01.06.2006 and 13.03.2007 bearing respective Document Nos.2543 of 2006 and 1232 of 2007 from M/s.VGP Agencies and since then, she has been in continuous possession and enjoyment of the same. After purchase, patta was also mutated in the petitioner's name. While so, the 4th respondent made a false claim against the petitioner's vendor that the said property is set apart for the road, but in the sanctioned plan, no such road was formed over the aforementioned property. To protect their interest, the petitioner's vendor filed a suit in O.S.No.2280 of 2004 before the V Assistant City Civil Court, Chennai, for permanent injunction; and the fourth respondent also filed a counter suit in O.S.No.14 of 2005 seeking declaration to declare the said property as public road; and now, both the suits are pending for trial.

2.The petitioner further stated that during the pendency of the aforesaid suits, the 4th respondent filed a Writ Petition in W.P.No.14189 of 2004 against M/s.V.G.P. and Company and Corporation of Chennai, without making the petitioner or her vendor as party to the same. By order dated 14.03.2007, the said writ petition was allowed with a direction to remove the encroachment on the 40 feet public road. On coming to know about the same, the petitioner filed a review application, which was dismissed. It is also stated that since the property purchased by the petitioner was lying vacant, the public started using the 24 feet private road to enter into the adjacent layout in S.No.317/1A1 and therefore, the petitioner constructed a 4 feet high compound wall to prevent trespass by the third parties. That apart, there were continuous disturbances with the peaceful possession of the petitioner by the Corporation. So, the petitioner filed a WP.No.10238 of 2020, which was dismissed by order dated 04.08.2020. Challenging the same, she filed WA.No.904 of 2020, before a Division Bench of this Court and the said appeal was disposed of, by order dated 12.10.2020, by observing that the observation made by the learned Single Judge in paragraph 10 of the order does not and cannot travel beyond what was said by the Division Bench and therefore, any action to be taken by the corporation, certainly, has to be in accordance with law and not otherwise; and that, it will be open to the petitioner to contest the position before the Corporation



accordingly and the Corporation will be obliged to consider the same and pass appropriate orders. Pursuant to the same, the petitioner made a representation dated 12.11.2020 to the respondents requesting to restore the subject property to its original status. However, till date, no action was taken on the same. Hence, the present writ petition came to be filed seeking appropriate direction to the respondents 1 to 3.

3. Though the petitioner raised very many averments in the affidavit filed in support of this writ petition, the learned senior counsel appearing for the petitioner, during the course of arguments, confined the relief to the extent of seeking a direction to the respondents 1 to 3 to consider the representation of the petitioner in the light of the judgment of the Division Bench rendered in WA.No.904 of 2020, for which, the learned standing counsel appearing for the respondents 1 to 3 has no serious objection.

4. It is seen from the records that the petitioner earlier filed WP.No.10238 of 2020 seeking a mandamus, forbearing the respondents from interfering with her peaceful possession and enjoyment of the subject property. By order dated 04.08.2020, the said writ petition was dismissed, by observing as follows:

"10. In view of the above discussion, this Court feels that no further orders can be passed in the present writ petition and the earlier orders passed by the Division Bench is still in force and the Corporation of Chennai is expected to comply with the said order in its letter and spirit."

Challenging the aforesaid order, the petitioner preferred WA.No.904 of 2020, which by judgment dated 12.10.2020, was disposed of with the following observations:

"6. In our considered opinion, the observation made by the learned Single Judge in paragraph 10 of the impugned judgment does not and cannot travel beyond what was said by the Division Bench and therefore, any action to be taken by the corporation, certainly, has to be in accordance with law and not otherwise.

7. It will be open to the appellant to contest the position before the Corporation accordingly and the corporation will be obliged to consider the same and pass appropriate orders thereon.

8. Therefore, no further orders are required to be passed. The appeal is consigned to records. No costs. Consequently, connected miscellaneous petition is closed."



Consequent to the aforesaid judgment, the petitioner made a detailed representation dated 12.11.2020 and the same is kept pending.

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5. Such being the factual matrix, having regard to the submissions now made by the learned counsel on either side, this Court directs the respondents 1 to 3 to consider the petitioner's representation dated 12.11.2020 and pass appropriate orders on merits and in accordance with law, after providing an opportunity of hearing to the petitioner as well as the fourth respondent and also in the light of the decision rendered by the Division Bench of this Court dated 12.10.2020 in WA.No.904 of 2020 as referred to above, within a period of six weeks from the date of receipt of a copy of this order.

6. The Writ Petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS-VIII)

True Copy

Sub-Assistant Registrar

msr

To

1. The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai 600 003.

2. The Assistant Commissioner,
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Muthulakshmi Salai, Adyar,
Chennai 600 020.

3. The Assistant Executive Engineer,
Velachery Zone,
61, Velachery Main Road,
Chennai 600 042.

+1 CC to M/s.A.L. Ganthimathi, Advocate sr 24505.

+1 CC to M/s.P.T. Ramadevi, Advocate sr 24355.

W.P.No.9920 of 2021 &
WMP.No.10534 of 2021

RLD(CO)
SP(19/07/2021)