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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2021

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND
THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

W.P. No. 10605 of 2021

T. Paramasivan

..Petitioner

Vs.

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

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

3. The Zonal Executive Engineer (Zone - IV),
No. 226, Thiruvottiyur High Road,
Chennai - 600 021.

4. The Assistant Director,
Fisheries Department, Royapuram,
Chennai - 600 013.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 1st and 2nd respondents to take necessary action to evict and lock and seal and demolish the illegally occupied building situated at Block No.61, Suryanarayana Chetty Street, Tondiarpet, Royapuram, Chennai - 600 013 by considering petitioner's representation dated 09.04.2021.

For Petitioner :: Mr.Jeyakumar for
Mr. R. Arunkumar

For Respondents:: Mrs. Veena Suresh for R1
Mr.K. Raja Srinivas for
R2 & R3
Mr.S. Kamalesh Kannan,
Govt. Advocate for R4



O R D E R
(Order of the Court was made by N. KIRUBAKARAN, J.)

The matter is heard through videoconferencing.

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2. This writ petition has been filed seeking a Writ of Mandamus directing the 1st and 2nd respondents to take necessary action to evict and lock and seal and demolish the illegally occupied building situated at Block No.61, Suryanarayana Chetty Street, Tondiarpet, Royapuram, Chennai - 600 013 by considering petitioner's representation dated 09.04.2021.

3. The petitioner and his family members have been filing writ petitions after writ petitions, right from 2015, with regard to the property comprised in R.S. No. 3477/6, which was already acquired by the authorities and Fisheries Development Corporation has put up construction.

4. The case of the petitioner is that he, his wife by name Mrs. Pattukani @ Lakshmi, his son P.Jayakumar and his daughter, P.Selvi, purchased properties, each measuring 2109 sq.ft, 2109 sq.ft, 2100 sq.ft and 2109 sq.ft respectively, totalling to 8436 sq.ft. comprised presently in R.S. No. 3477/6, previously part of R.S. No. 3478/3, Block No. 61 and situate in Suryanarayana Chettu Street, Tondiarpet, Royapuram, Chennai - 13. The members of the petitioner's family executed General Power of Attorney in the name of the petitioner and they are in possession and enjoyment of the said property. While so, the 4th respondent trespassed into the property and illegally occupied and constructed a superstructure in the property and therefore, the petitioner gave a complaint on 12.02.2020 and another representation was given on 09.04.2021. Since no action was taken, the petitioner has come before this Court.

5. Heard Mr. Jeyakumar, learned counsel appearing on behalf of Mr. R. Arunkumar, learned counsel for the petitioner, Mrs. Veena Suresh, learned counsel for the 1st respondent, Mr.K. Raja Srinivas, learned counsel for respondents 2 and 3 and Mr.S.Kamalesh Kannan, learned counsel for the 4th respondent.

6. This writ petition is nothing but abuse of process of law. The petitioner has been filing writ petitions after writ petitions with regard to the same property and one such writ petition filed in the name of his wife, namely, Mrs. Pattukani @ Lakhmi in W.P. No. 1653/2015 was dismissed on 27.01.2015. Again, another writ petition in W.P. No. 10927/2015 was filed by his wife which was dismissed on 15.06.2015 stating that the writ petition is nothing but misuse of judicial process. Not satisfied with that, again, his daughter, R. Selvi filed W.P.



No. 1699 of 2015 in which a direction was given to consider the representation of the petitioner therein dated 06.01.2015. Thereafter, his son P. Jayakumar filed W.P. No. 1692 of 2015, which was disposed of on 27.01.2015 to consider his representation dated 06.01.2015. When so many writ petitions have been filed, not even a whisper has been made about these proceedings in this writ petition, which is nothing but suppression of material facts. On this ground alone, the writ petition is liable to be dismissed. It had already been observed, especially, in the order dated 15.06.2015 filed by one of the family members namely, the wife of the petitioner in W.P. No. 10927 of 2015 that it is nothing but misuse of judicial process.

7. Moreover, Mr.S. Kamalesh Kannan, learned Government Advocate would submit that already the respondents have acquired the property and the said acquisition was unsuccessfully challenged. The respondents took over the possession of the property as early as on 31.10.1995 and put up construction. The photographs filed before this Court would show that a building has been constructed, where the Fisheries Department is running its office.

8. When the entire land acquisition proceedings were over as early as in the year 1995, it seems that the petitioner, without knowing the acquisition proceedings, had subsequently purchased the property on 22.04.1996 from one B.S. Gurunathan. If any suppression had been made to sell the property to the petitioner and his family members, it is always open to the petitioner and his family members to claim compensation against the vendor, who sold the property suppressing the land acquisition proceedings. Therefore, the writ petition is not maintainable. With the above observation, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

nv
To

1. The Member Secretary,
Chennai Metropolitan Development
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Chennai - 600 008.



2. The Commissioner,
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3. The Zonal Executive Engineer (Zone - IV),
No. 226, Thiruvottiyur High Road,
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4. The Assistant Director,
Fisheries Department, Royapuram,
Chennai - 600 013.

+3cc to Mr.R.Arunkumar, Advocate, S.R.No.26193
+1cc to Mr.Veenasuresh, Advocate, S.R.No. 26232

W.P. No. 10605 of 2021

PCH (CO)
GN (23/07/2021)