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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2021

CORAM :

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

W.P. No. 9861 of 2020
and
W.M.P. No. 11981 of 2020

Mrs. D.Lakshmipriya ...Petitioner
Vs.

1. The Commissioner
Corporation of Chennai
Chennai - 600 003.

2. The Zonal Officer
Ambattur Zone
Corporation of Chennai
Ambattur, Chennai - 600 053.

...Respondents

PRAYER : Petition filed under Section Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, forbearing the Respondents their men agent or others in any manner or by any authorities in any manner from interfering with the Petitioner's peaceful possession and enjoyment of the Schedule mentioned property.

For Petitioner : Mr. R.Balasubramanian

For Respondents : Mrs. Karthikaa Ashok

ORDER

(Order of the Court was passed by N.KIRUBAKARAN, J)

The matter was heard through ''Video Conference''.

2. The Petitioner has approached this Court seeking Writ of Mandamus forbearing the Respondents from interfering with the Petitioner's peaceful possession and enjoyment of the property, comprised in Old Survey No.174/2 and Re-Survey No. 128, situated at Door No.9/6, Munusamy Koil Street, Menambedu Village, Ambattur, Chennai - 600 053.



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3. The Petitioner submits that she got the above mentioned property by virtue of Settlement Deed dated 06.12.2004 executed by her mother, viz., Mrs. K.Meenakshi, vide document No.13274 of 2004. When the Petitioner got the property legally and also obtained Patta for her lawful possession and enjoyment of the property, the Respondents Corporation demolished a portion of the property and trying to dispossess her from the remaining portion of the property. Aggrieved thereby, the Petitioner has come before this Court.

4. Heard Mr. R.Balasubramanian, Learned Counsel for the Petitioner and Mrs. Kaarthika Ashok, Learned Standing Counsel appearing for the Respondents, and perused the materials placed on record.

5. It is evident from the records that she is the owner of the property having an extent of 0.0206 hectares, comprised in Old Survey No. 174/2, Re-Survey No. 128, which is classified as 'Grama Natham'. Though the patta discloses that the Petitioner is having only an extent of 0.0206 hectares, which is equivalent to 206 square meter (2217 square feet), it is not known as to how by virtue of Settlement Deed, the extent of the property can be increased to 5200 square feet, as the Patta issued in favour of the Petitioner viz., Mrs. D.Lakshmipriya is only to an extent of 0.0206 hectares, which has been filed by the Petitioner herself in the typed-set of papers at Page No.1.

6. Though the Petitioner further contends that relying upon the Certificate dated 14.02.2005 issued by the Tahsildar, Ambattur to show that the Petitioner is having an extent of 5200 square feet of property, it is now known as to how the Tahsildar, Ambattur has issued such a certificate, without any supporting documents to that effect.

7. It is also evident from the Counter-Affidavit filed by the Respondents Corporation that the Petitioner has been assigned with 206 square meter (2217 square feet), comprised in Survey No.128. The Survey No. 129 is a water channel and the Petitioner has encroached upon the water channel to an extent of 80 square meter. Therefore, appropriate action has been taken to remove the encroachment by demolition. The Revenue records viz., Town Survey Register issued by the Sub-Inspector, Ambattur Taluk filed by the Respondents would also no doubt prove that the Petitioner is occupying 206 square meter in Survey No. 128, whereas Survey No. 129 is classified as Water body (Erineer vadivari).

8. When the Revenue Records categorically states that Survey No. 129 is a water channel, no body including the Petitioner can encroach upon the said Government land. Therefore, the



Respondents Corporation had rightly acted upon to remove the encroachment of 80 square meter comprised in Survey No.129, which is stated to be encroached by the Petitioner,

9. However, the Respondents Corporation are directed to re-survey the entire property comprised in Survey No. 129, which is a water channel and remove the encroachment made by any body including the Petitioner, and put up fence in order to safeguard the water channel, which has to be maintained in consonance with the Revenue Records.

10. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Maya

To

1. The Commissioner
Corporation of Chennai
Chennai - 600 003.
2. The Zonal Officer
Ambattur Zone
Corporation of Chennai
Ambattur, Chennai - 600 053.

+1cc to Mr.R.Balasubramanian, Advocate, S.R.No.37605
+1cc to M/s.Karthikaa Ashok, Advocate, S.R.No.37625

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NSK 08/09/2021