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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P. No.15507 of 2021
& W.M.P. Nos.16433 & 16434 of 2021

1.Mr.R.Vetri,
S/o. Mr.Radhakrishnan.

2.Mr.N.Sivaraman,
S/o. Mr.Narayanaswamy.
Rep. by their Power of Attorney Agent,
Mr.K.M.Syed Khalifa.

...Petitioners

Vs.

1.The District Collector,
Collectorate, Rajaji Salai,
Chennai-600 001.

2.The Corporation of Chennai,
Rep. by its Commissioner,
Ripon Buildings, Chennai-600 003.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 2nd respondent to consider their representations dated 23.02.2018 and 17.07.2020 and to remove the shed, equipment and solid waste lying in the said property owned by the Petitioners.

For Petitioners	: Mr.Thiageswaran for Waron and Sirams
For Respondent 1	: Mr.U.Baranidharan, Government Advocate
For Respondent 2	: Mrs.P.T. Ramadevi Standing Counsel

O R D E R

This writ petition has been filed for issue of writ of mandamus directing the 2nd respondent to consider the representations made by the petitioner on 23.02.2018 and 17.07.2020 and to remove the shed, equipment and solid waste that is lying in the subject property.



2.The case of the petitioners is that the subject property measuring an extent of 1.05 acres was purchased by the petitioners through a registered sale deed dated 06.01.1990. The further case of the petitioners is that an attempt was made to establish a 'Uzhavar Santhai' in the property and hence the petitioners filed a Suit in O.S. No.528 of 2000 seeking for the relief of the declaration and permanent injunction. The Suit was filed as against four defendants and the District Collector, Chennai District was the 3rd defendant in this Suit.

3.The above Suit came to be dismissed by a judgment and decree dated 06.01.2010 by the XIV Assistant Judge, City Civil Court, Chennai. Aggrieved by the same, the petitioners filed an appeal in A.S. No.122 of 2011. This appeal was contested by the defendants/respondents and ultimately, the appeal was allowed by a judgment and decree dated 03.01.2013 and thereby the judgment and decree of the Trial Court was set aside and the petitioners were declared to be the absolute owners of the subject property. There was also a consequential relief of permanent injunction granted in favour of the petitioner. It is stated that this decree has become final and no appeal was filed as against the judgment and decree passed in the Appeal Suit.

4.The grievance of the petitioner is that the Chennai Corporation without any authority had put up a shed and started dumping the solid waste in the property owned by the petitioners. The petitioners therefore made representations requesting for the removal of the same. Since the same was not considered, the present writ petition has been filed before this Court seeking for appropriate directions.

5.The 2nd respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted here under:

7. I respectfully submit that the Government of India in the year 2014 has formulated a scheme namely "Swachh Bharat Mission" with an aim to clean up the streets, roads and infrastructure of India's cities, towns and rural areas. I further submit that under the said scheme the Government of India is providing funds for constructing compost yards for preparing manure from the biodegradable waste in the limits of Chennai City.

8.I respectfully submit that the Greater Chennai Corporation is not a party to the First Appeal in A.S.No.122 of 2011 and the injunction order obtained by the petitioner herein does not bind the Greater Chennai Corporation. I further submit that as per the



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Revenue Records, the land in question at Block No.40, T.S. No.32, Old Survey No.138/2, Kolathur Village, Ayanavaram Taluk is classified as "Anadheenam" and further there is no Revenue Record available in the Taluk Office as Survey No.138/2B, Kolathur Village, Ayanavaram Taluk.

9.I respectfully submit that the Commissioner, Greater Chennai Corporation has addressed a letter dated 02.07.2021 to the Collector, Chennai District i.e, the 1st respondent herein, requesting to award an entry permission to the Greater Chennai Corporation in the land at Survey No.32, Block No.40, Kolathur Village, Ayanavaram Taluk for setting up a Micro Compost Center in the said land.

10.I respectfully submit that the Greater Chennai Corporation has taken steps to construct a Micro Composting Centre in the government vacant land in question in order to reduce the dumping of garbage and also to safeguard the Government land.

6.Heard Mr.Thiageswaran, learned counsel appearing on behalf of the petitioners, Mr.U.Baranidharan, learned Government Advocate appearing on behalf of the 1st respondent and Mrs.P.T.Ramadevi, learned Standing Counsel appearing on behalf of the 2nd respondent.

7.The facts that have been discussed Supra makes it clear that the title of the petitioners have been declared by a competent civil court and it binds the respondents/defendants. The 2nd respondent seems to be utilising the property based on the entry found in the Revenue Records as if the subject property is classified as "Anadhennam". However the fact remains that the subject property was found to be the absolute property of the petitioners and this judgment and decree was passed in the appeal after it was contested by the official defendants. It is also seen from the counter affidavit that the 2nd respondent has addressed a letter to the 1st respondent seeking for a permission to enter upon the property for setting up a Micro Compost Centre in the property.

8.In the considered view of this Court, the 1st respondent cannot grant any such permission in view of the fact that the District Collector is bound by the judgment and decree of the competent civil court. Till this judgment and decree is reversed in the manner known to law, there is no question of anyone denying the title of the petitioners. Even the 2nd respondent is attempting to put up a Micro Compost Centre in the property based on the entries made in the Revenue Records. The moment a



Civil Court renders a decree by declaring the title to the property, the entry in the Revenue Records will become irrelevant.

9. In view of the above, the 2nd respondent cannot go forward and construct any Micro Composting Centre in the property and the 1st respondent cannot grant any such permission. That apart, the 2nd respondent has to necessarily consider the representations made by the petitioners on 23.02.2018 and 17.07.2020 and necessary steps must be taken to remove the shed, equipments and the solid waste that is lying in the property. The 2nd respondent cannot straight away get into the property belonging to the petitioners without following the due process of law and such an interference will violate the constitutional right guaranteed under Article 300A of the Constitution of India.

10. The decision shall be taken by the 2nd respondent, within a period of four weeks from the date of receipt of copy of this order and effective steps shall be taken to remove the equipments and the solid waste lying in the property.

11. This writ petition is disposed of with the above directions. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssr/mka

To

1. The District Collector,
Collectorate, Rajaji Salai,
Chennai-600 001.

2. The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai-600 003.

+3cc to M/s. Waraon & Sai Rams, Advocate, S.R.No.48407
+1cc to M/s. P.T. Ramadevi, Advocate, S.R.No.48751
+1cc to the Government Pleader, S.R.No.49054

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PP(CO)
CB(30/09/2021)