



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.16292 of 2021

C.Deepa

... Petitioner

-Vs-

1 The Commissioner of Corporation
Chennai Corporation, Rippon Building
Chennai

2 The Executive Engineer
Zone 9 Chennai Corporation No. 4, 4th Cross
Street Lake view Road Chennai 600 034

3 The Assisstant Executive Engineer
Town Planning Zone 9 Ward No. 123
Lake View Road Chennai 34

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the respondents 1 to 3 to grant the petitioner demolition and reconstruction permission of the petitioner house situated at New Door No. 40 Old No. 19 Plot No. 3A 3B in Survey No. 1674 / 43 Krishnasami Avenue Mylapore Chennai 04 on the basis the petitioner online application No. PPA / WDCN09 / 04439 / 2021 dated 17.06.2021 without insisting for production of will probate copy as per the communication of the 3rd respondent in proceeding No. W.D.C.No. PPA / WDCN09 / 04439 / 2021 dated 22.06.2021.

For Petitioner	:	Mr.S.Venkatesh
For Respondents	:	Mrs.P.T.Ramadevi, Standing Counsel (for Corporation)

O R D E R

This writ petition has been filed for the issue of a writ of Mandamus directing the respondents to grant permission to the petitioner for demolition and reconstruction of the property without insisting for the production of the probate of the Will as per the communication of the third respondent dated 22.06.2021.



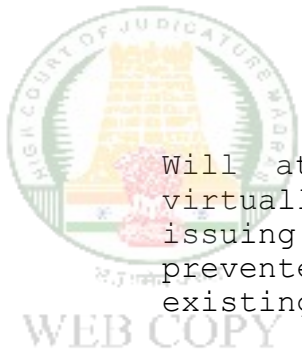
2. The subject property was originally owned by one K.K.Anandammal and she sold this property to one Vaidhyanathan in the year 1970 by a registered Document No.1968 of 1970. The said Vaidhyanathan executed a Will dated 10.09.1990 in favour of one Raghunandan. The said Vaidhyanathan died and subsequently his wife also died and it is stated that both of them died issueless. The above said Raghunandan inherited the property by virtue of the Will and he entered into an agreement of sale with the father of the petitioner in the year 2011 through a registered document No.1679 of 2011. Pursuant to the same, the said Raghunandan executed a sale deed dated 21.12.2011 in favour of the petitioner's father and the same was also registered as Document No.3161 of 2011.

3. The father of the petitioner settled the property in favour of the petitioner through a registered Settlement Deed dated 22.05.2013 and the same was also registered as Document No.1541 of 2013. Thereafter, the property tax was also assessed in the name of the petitioner. The Patta was also transferred in the name of the petitioner in Patta No.941 of 2014. That apart, the water supply and sewage connection was also assessed in the name of the petitioner and thereby, the petitioner is in possession and enjoyment of the property as the owner of the property.

4. Since the building was in a very dilapidated condition, the petitioner decided to make an application for demolition and reconstruction of the house and accordingly submitted an on-line application on 17.06.2021. On receipt of the same, the petitioner received a communication from the third respondent dated 22.06.2021 directing the petitioner to produce the probate copy of the Will that was executed in favour of Raghunandan. Aggrieved by the same, the petitioner has filed the present writ petition seeking for appropriate directions.

5. Heard Mr.S.Venkatesh, learned counsel for the petitioner and Mrs.P.T.Ramadevi, learned Standing Counsel appearing for the respondents.

6. In the considered view of this Court, there was no necessity for the third respondent to insist for the probate of the Will. The Will was executed by one Vaidhyanathan in favour of predecessor-in-interest and the beneficiary under the Will has already dealt with the property and sold the property in the year 2011 itself. Thereafter, the property has once again been settled in favour of the petitioner and there are sufficient materials to show that the petitioner has been recognized as the owner of the property. Under such circumstances, there was no necessity for the petitioner to produce the probate of the Will. Even otherwise, the petitioner cannot get the probate of the



Will at this length of time and the third respondent was virtually insisting the petitioner to do an impossible task. By issuing such a communication, the petitioner has in fact been prevented from enjoying his own property by demolishing the existing structure and putting up a new construction.

7. In view of the above discussion, this Court does not find any justification on the part of the third respondent to have insisted for the probate of the Will and the same is not required. Therefore, there shall be a direction to the third respondent to process the application submitted by the petitioner without insisting for the probate of the Will and grant necessary approval on the petitioner satisfying all the other requirements, within a period of four weeks from the date of receipt of a copy of this order. The petitioner is directed to make a fresh representation along with all relevant documents and a copy of this order.

8. With the above directions, this writ petition is allowed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

KST

To

- 1 The Commissioner of Corporation
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Chennai
- 2 The Executive Engineer
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- 3 The Assistant Executive Engineer
Town Planning Zone 9 Ward No. 123
Lake View Road Chennai 34.

+1cc to Mrs.P.T.Ramadevi, Advocate, S.R.No.40162
+1cc to Mr.S.Venkatesh, Advocate, S.R.No.39957

W.P.No.16292 of 2021

RR(CO)
HS(26/08/2021)