



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 08.10.2021

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

W.P. No.21031 of 2021
and
WMP.No.22291 of 2021

K.Lingeswaran

.. Petitioner

Versus

1. The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai 600 003.
2. The Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road, Egmore,
Chennai 600 008.
3. The Zonal Officer,
Zone-1 (Thiruvottiyur),
945A, Thiruvottiyur High Road,
Sathya Moorthy Nagar, Rajakadai,
Thiruvottiyur,
Chennai 600 019.
4. The Assistant Engineer,
Chennai Corporation,
Thiruvottiyur,
Chennai 600 019.

5. M.Vasanthi

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus, directing the respondents 1 to 4 to take action on the petitioner's representation dated 11.06.2021 within stipulated period fixed by this Court and remove the unauthorized construction put up by the 5th respondent in Plot No.76A, Rajashanmugam Nagar, 9th Street, Thiruvottiyur, Chennai 600 019 and the encroachment made on the road margin.



WEB COPY

For petitioner : Mr.K.Venkateswaran

For respondents
for RR1, 3 & 4 : Mr.K.Raja Shrinivas

for R2 : No Appearance

for R5 : Mr.M.Anandaraj

ORDER

(The Order of the Court was made by K.KALYANASUNDARAM, J)

The Writ Petition is heard through video conferencing.

2. The petitioner has come up with this Writ Petition for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to take action on the petitioner's representation dated 11.06.2021 within a stipulated time.

3. The petitioner would state that he purchased a Plot No.75, Door No.27 at Rajashanmugam Nagar, 9th Street, Thiruvottiyur through a sale deed dated 24.01.1996. After obtaining necessary planning permission, he constructed a building and residing therein. The petitioner would allege that one V.Anandan, who is the owner of the Plot No.76A, had put up a construction without any planning permission and by encroaching the petitioner's property and the public road and thereafter, sold the property to the fifth respondent. The petitioner gave a representation to the official respondents to take action to remove the unauthorized construction, but no action has been taken so far.

4. Mr.K.Venkateswaran, learned counsel appearing for the petitioner would state that though the Officials of the Corporation issued lock and seal notice dated 08.04.2021, subsequently, no action has been taken so far. Hence, the present Writ Petition.

5. Mr.K.Raja Shrinivas, learned Senior Standing Counsel appearing for the respondents 1, 3 and 4 would state that in pursuance of the lock and seal notice, de-occupation notice was served on the fifth respondent on 29.09.2021. He would further add that though the lock and seal notice was issued in the month of April 2021, due to Covid-19 pandemic, they were not proceeded with the de-occupation notice immediately.

6. It is the submission of the learned counsel appearing for the fifth respondent Mr.M.Anandaraj, that civil dispute



exists between the petitioner and the fifth respondent, hence the present Writ Petition has been filed.

7. It is settled principle that disputed question on facts or civil dispute in existence between the parties cannot be decided in a Writ Petition filed involving Article 226 of the Constitution of India. However, considering the facts and circumstances of the case that the official respondents has already issued de-occupation notice, we are of the opinion that nothing survives for consideration in this Writ Petition. Accordingly, the Writ Petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

Pvs

To

1. The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai 600 003.
2. The Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road, Egmore,
Chennai 600 008.
3. The Zonal Officer,
Zone-1 (Thiruvottiyur),
945A, Thiruvottiyur High Road,
Sathya Moorthy Nagar, Rajakadai,
Thiruvottiyur, Chennai 600 019.
4. The Assistant Engineer,
Chennai Corporation,
Thiruvottiyur, Chennai 600 019.

+1cc to Mr.K.Venkateswaran, Advocate, S.R.No. 53623
+1cc to Mr.K.Raja Shrinivas, Advocate, S.R.No.53401

W.P. No.21031 of 2021

GJ(CO)
GN(02/11/2021)