



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.02.2022

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.1931 of 2022
and
W.M.P.No.2086 of 2022

Jains Pebble Brook Flat Owners Association
Rep.by its President having regd office at
Jains Pebble Brook, Madha Koil Street,
Okkiyampet, Thoraipakkam, Chennai-600 097.

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Petitioner

Vs

- 1.The Tahsildar
Sholinganallur Taluk Office
New Kumaran Nagar,
Sholingnallur,
Chennai-600 009.
- 2.Chennai Metropolitan Development Authority
Thalamuthu Natarajan Maaligai,
No.1, Gandhi Irwin Road,
Egmore,
Chennai-600 008.
- 3.M/s. Hevea Engineers Pvt Ltd,
Rep.by its Managing Director,
No.118 Pillayar Koil Street.
Okkiyampet
Thuraipakkam
Chennai-600 096.
- 4.Sunil Varghese
S/o.Late Varghese Samuel
No.118 Pillayar Koil Street
Okkiyampet
Thuraipakkam
Chennai-600096.

...

Respondents



PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling upon the records relating the impugned communication dated 10.02/2021 bearing Na.Ka.No./2483/2021/B issued by the 1st respondent and the Surveyor Report dated 25.01.2021 and quash the same as illegal.

For Petitioner ... M/s. Rohini Ravikumar

For R-1 ... Mr. G. Nanmaran,
Special Government Pleader

O R D E R

The present petition has been filed seeking the relief of quashment of the impugned communication dated 10.02.2021 along with the surveyor report dated 07.01.2021 issued by the 1st respondent.

2. Mr. G. Nanmaran, learned Special Government Pleader takes notice for the 1st respondent.

3. It is the case of the petitioner that the 3rd respondent had sent a letter to the 1st respondent requesting to survey the property situated in Survey No.420/1, pursuant to which, the property was surveyed and the impugned communication dated 10.02.2021 was issued by the 1st respondent, based on which, the 4th respondent had demolished the wall situated at the entrance of the petitioner's association by using JCB. Aggrieved by the same, the present petition has been filed seeking the relief of quashment of the impugned order.

4. Learned counsel for the petitioner submits that this Court in several judgments has held that the revenue authorities cannot act like a civil court and adjudicate upon civil rights of the parties. However, without serving any notice to the petitioner with regard to the inspection, the subject property has been surveyed and the present impugned communication has been issued by the 1st respondent, pursuant to which, the wall which was situated in the petitioner's association has been demolished by the 4th respondent. Hence, the said impugned communication is liable to be quashed by allowing this Writ Petition.



5. Learned Additional Government Pleader denied the averments of the learned counsel for the petitioner with regard to demolition of the wall situated in the petitioner's association. Further, the dispute between the parties is civil in nature and the petitioner may work out his remedy before the competent civil forum. Instead of approaching the civil court, filing of Writ Petition before this Court, seeking the relief of quashment of the impugned report is not sustainable. Hence, this Writ Petition deserves to be dismissed.

6. A careful perusal of the materials available on record reveals that the 1st respondent had issued the impugned notice dated 10.02.2021, after surveying the subject property. Pursuant to the said notice, the 4th respondent had demolished the wall situated in the petitioner's association which has prompted the petitioner to file this petition seeking quashment of the same.

7. Even a bare understanding of the dispute reveals that the issue between the parties is civil in nature and therefore this Court is of the opinion that the petitioner, has to avail the remedy before the competent civil court, and filing this Writ Petition seeking quashment of the impugned report of the 1st respondent is not sustainable.

8. The issue pertaining to demolition of the wall situated in the petitioner's association being a disputed question of fact and the said issue between the parties being civil in nature, this Court under Article 226 of the Indian Constitution cannot adjudicate the same and the prayer sought for in this Writ Petition cannot be acceded to and this Writ Petition deserves to be dismissed. If at all the petitioner has any grievance, it is open for the petitioner to seek for appropriate remedy before the competent civil court.

9. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

NHS



To

1.The Tahsildar

Sholinganallur Taluk Office

New Kumaran Nagar,

Sholingnallur,

Chennai-600 009.

2.Chennai Metropolitan Development Authority

Thalamuthu Natarajan Maaligai,

No.1, Gandhi Irwin Road,

Egmore,

Chennai-600 008.

+2cc to M/s.Rohini Ravikumar, Advocate SR.No.7882, 7982

+1cc to the Government Pleader, SR.No.8679

W.P.No.1931 of 2022

SKM(CO)

CB(08/04/2022)