



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.6952 of 2022

G.Ramakrishnan

... Petitioner

-vs-

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building, E.V.R.Salai,
Chennai-600 003.

2. Thendral

3. The Executive Engineer,
Corporation of Chennai,
Zone VI, Ayanavaram,
Chennai.

... Respondents

(R3 was suo motu impleaded by this Court in this order)

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the 1st respondent to take action against the 2nd respondent for putting up the illegal construction in the petitioner's peaceful possession and enjoyment of the property measuring an extent of 1200 sq.ft. comprised in Old R.S.No.317/30, New R.S.No.317/142 Block No.19 in the set back area of 243 sq.ft. which solely belonged to the petitioner and dispose of the petitioner's representation dated 14.12.2019.

For Petitioner : Mr.K.Manikandan

For 1st Respondent : Mr.K.Raja Shrinivas,
Standing Counsel

ORDER

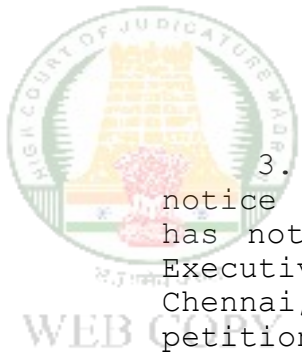
(Order of the Court was made by T.RAJA, J.)

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the 1st respondent to take action against the 2nd respondent for putting up the illegal construction in the petitioner's peaceful possession and



enjoyment of the property measuring an extent of 1200 sq.ft. comprised in Old R.S.No.317/30, New R.S.No.317/142 Block No.19 in the set back area of 243 sq.ft. which solely belongs to the petitioner and dispose of the petitioner's representation dated 14.12.2019.

2. Learned Counsel appearing for the petitioner would submit that the petitioner claims to be the owner of the house and premises bearing Door No.1A, Ekangipuram Main Street, Pattabhi Colony, Perambur, Chennai-600 011, having purchased the same for a valid consideration from one Mr.T.K.Murugesan under a registered Sale Deed whereas one late Mr.Manickam was the owner of the land and house bearing Door No.1, Ekangipuram Main Street, Pattabhi Colony, Perambur, Chennai-11, who filed O.S.No.8624/1983 on the file of the learned III Assistant Judge, City Civil Court, Chennai against his predecessor-in-title Mr.T.K.Murugesan for declaration of his title and mandatory injunction in respect of the set back land measuring 243 sq.ft. provided by the petitioner and the said suit was partly allowed in respect of the prayer for declaration and dismissed in respect of the prayer for mandatory injunction. Aggrieved over the said judgment and decree both T.K.Murugesan and Mr.Manickam preferred appeals in A.S.Nos.191/1998 and 83 of 2002 respectively on the file of the learned IV Additional Judge, City Civil Court, Chennai. The First Appellate Court has allowed the appeal preferred by Mr.T.K.Murugesan and dismissed the cross-appeal preferred by Manickam. Thereafter, no further appeal was filed and it has become final. Later on, the said Manickam also died intestate leaving behind his sons and daughters as his legal heirs. While so, after the purchase of the land-in-question by the petitioner herein, the legal heirs of Mr.Manickam interfered with the peaceful possession and enjoyment of the petitioner in the said set back area of 243 sq.ft. belongs to the petitioner. Therefore, the petitioner filed a suit against them for permanent injunction in O.S.No.2027/2012 on the file of the XVII Assistant Judge, City Civil Court, Chennai and the same was also decreed on 29.07.2016. But the legal heirs of the late Manickam have put up illegal constructions by encroaching the set back area and closing all the windows of the petitioner's house in violation of the judgment and decree. Thereafter, the petitioner has moved an Execution Petition before the XXVI Assistant Judge, Allikulam for punishing the judgment debtors for disobedience of the order. In the meanwhile since one of the judgment debtors, namely, late Rukmangadan's son Thendral has constructed a building unauthorizedly without getting any planning permission, the petitioner has submitted a representation dated 14.12.2019. Since no action is forthcoming, the petitioner has filed the present Writ Petition.



3. Mr.K.Raja Shrinivas, learned Standing Counsel taking notice for the 1st respondent would submit that the petitioner has not impleaded the necessary and proper party, namely, The Executive Engineer, Corporation of Chennai, Zone-VI, Ayanavaram, Chennai, who is a competent authority to consider the petitioner's representation dated 14.12.2019.

4. In view of the above, The Executive Engineer, Corporation of Chennai, Zone-VI, Ayanavaram, Chennai is hereby suo motu impleaded as 3rd respondent in this Writ Petition, who in turn, shall consider and dispose of the petitioner's representation dated 14.12.2019 on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this Order.

5. With the above observation and direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building, E.V.R.Salai,
Chennai-600 003.

2. The Executive Engineer,
Corporation of Chennai,
Zone VI, Ayanavaram,
Chennai.

+lcc to Mr.K.Rajashrinivas, Advocate, S.R.No.20729

+lcc to Mr.K.Manikandan, Advocate, S.R.No.20208

W.P.No.6952 of 2022

AK-II(CO)
SB(27/05/2022)