



W.P.No.5655 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.5655 of 2019
and
W.M.P.No.6440 of 2019

M.Rajeshwari

Vs.

...Petitioner

- 1.The Commissioner,
Corporation of Chennai,
Greater Chennai Corporation,
Rippon Building, Chennai – 600 003.
- 2.The Regional Deputy Commissioner,
(Central) Corporation of Chennai,
No.36B, 2nd Cross Street,
Pulla Avenue, Sehnoy Nagar, Chennai – 30.
- 3.The Zonal Officer,
Zone – X, Greater Chennai Corporation,
No.117, N.S.K.Salai,
Kodambakkam, Chennai – 24.
- 4.The Assistant Commissioner,
Zone – X, Greater Chennai Corporation,
No.117, N.S.K.Salai, Kodambakkam,
Chennai – 24.



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5.The Assistant Executive Engineer (Unit 29)

Greater Chennai Corporation,
Zonal Office X, No.117, N.S.K.Salai,
Kodambakkam, Chennai – 24.

6.The Assistant Engineer,
Greater Chennai Corporation,
No.1, Ayyappa Nagar Main Road,
Koyambedu, Chennai – 600 107.

7.The Tahsildar, Egmore Taluk,
(then Egmore – Nungambakkam Taluk)
Spur Tank Road:Chennai – 31.

8.The Tahsildar,
Aminjikarai Taluk, Chennai.

9.The Tahsildar,
Mambalam Taluk, Chennai.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order M.A.10.Na.Ka.No.9198/2018 dated 24.01.2019 passed by the 3rd respondent herein, quash the same and consequently forbear the respondents and anyone on their behalf from demolishing, removing, dispossessing, evicting and preventing ingress and egress by locking and sealing the premises of the petitioner, leading to dispossess from her property of No.5/2 Natesan Nagar West Street, Virugambakkam, Chennai having a plinth area of 800 sq.ft in the land area of 995 sq.ft comprised in Old Survey No.72, Town Survey No.134/3, situated within the precincts of Block No.2, Division 10 of Corporation of Chennai.



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For Petitioner : Mr.T.K.S.Gandhi
For Respondents : Mrs.P.T.Ramadevi,

Standing Counsel for R1 to R6

Mr.Vadivelu Deenadayalan,

Additional Government Pleader for R7 to R9

ORDER

(Order of the Court was made by **R.SUBRAMANIAN, J.**)

Challenge in the writ petition is to the order of the Chennai City Municipal Corporation made under Section 222 of the Chennai City Municipal Corporation Act requiring the petitioner to vacate and deliver vacant possession of an extent of 1625 sq.ft of land which is classified as Grama Natham(street) in the revenue records.

2. The petitioner would claim that her husband has purchased the property under the registered sale deed dated 13.03.1989 and has put up a construction thereupon. Reliance is also placed on the enjoyment certificate issued by the Tahsildar, Egmore Nungambakkam Taluk on 01.11.2004 in support of the contention of the petitioner that the land in question has been in enjoyment of her husband since the date of purchase.



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3. The petitioner was slapped with the notice under Section 222 of the City Municipal Corporation Act which provides for eviction of encroachment on public street. The petitioner challenged the show cause notice and during the pendency of the said challenge in W.P.No.30961 of 2018, an order came to be passed under Section 222 requiring the petitioner to vacate and deliver vacant possession on 24.01.2019. The petitioner therefore withdrew the earlier writ petition and has come up with the instant writ petition.

4. The main contention of the learned counsel for the petitioner is that the Tahsildar, Egmore Nungambakkam Taluk recognized the possession of the petitioner in the year 2004 and issued enjoyment certificate to the petitioner on 01.11.2004. The said certificate itself shows that the land measuring about 2957 sq.f. classified as Grama Natham (Village Site) has been in possession of the petitioner's family for more than 15 years.

5. In view of the conflict in the description of the nature of the land, we had required the officials to produce the original Settlement



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Register of the Village concerned. A perusal of the original Settlement

Register shows that the entire S.No.134 of Senjeri Village has been classified as Grama Natham (street). Even the sale deed which has been executed by one Kumar in favour of the petitioner's husband on 13.03.1989 would show that the land in question has been classified as Pattai Poramboke. It is therefore clear that the petitioner's husband has purchased the property classified as Pattai Poramboke in the revenue records and managed to obtain enjoyment certificate showing that it is a Grama Natham (Village Site).

6. The learned counsel for the petitioner would however contend that there is a motive behind the proceedings launched under Section 222 of the City Municipal Corporation Act. We cannot pronounce upon such motive which is based on surmises. The revenue records would establish that the land in question was classified as Grama Natham (street) and the very sale deed in favour of the petitioner's husband describes it as Pattai Poramboke. Therefore, the petitioner cannot claim vested right in the property in question and the enjoyment certificate issued cannot confer title



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on the petitioner so as to enable the petitioner to resist eviction proceedings under Section 222 of the City Municipal Corporation Act.

7. An attempt is made by the learned counsel for the petitioner to impress upon us that if the land is not a street as on ground proceedings under Section 222 of the City Municipal Corporation Act cannot be taken. We are not impressed upon the said argument. Once it is shown that the land is classified as a street or Pattai Poramboke, provisions of Section 222 of the City Municipal Corporation Act would automatically apply upon the area being included in the Chennai Corporation limits.

8. The learned counsel would also submit that for the very same S.No.134, Chennai Corporation has approved construction plan for the property which is situate immediately on the East of the petitioner's land. We do not think that such an approval itself will confer right on the petitioner to continue occupation of the land which is classified as a Pattai Poramboke. The learned counsel would also add that proceedings have been taken by the Corporation to withdraw the sanction and the same is



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subject matter of challenge before the civil Court. We do not pronounce upon it as the same is not the subject matter of this writ petition.

9. We therefore see no merits in the writ petition. The writ petition therefore fails and it is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

(R.S.M.,J.) (K.B.,J.)
10.10.2022

dsa

Index :No
Internet :Yes
Speaking order



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