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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.NO.11645 OF 2020

D.Yogeshkumar

...Petitioner

vs

1.The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003.

2.The Managing Director,
Chennai Metropolitan Water Supply and
Sewerage Board,
Chennai.

3.Ramanathan

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the first respondent to consider the petitioner's representation dated 05.03.2020 in accordance with law by removing the unauthorised construction and disconnect the sewerage connection by the second respondent in the illegal construction by the third respondent in the petitioner's land.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.K.Raja Shrinivas,
Standing Counsel for R1

No appearance for R2

Mr.R.Sreedhar for R3

ORDER

[Order of this Court was delivered by T.RAJA, J.]

D.Yogeshkumar, the petitioner herein has come to this Court with this petition for issuance of a writ of Mandamus directing



the first respondent to consider his representation dated 05.03.2020 in accordance with law by removing the un-authorised construction and disconnect the sewerage connection given by the second respondent in the illegal construction made by the third respondent in his land.

2.Learned counsel appearing for the petitioner submitted that the petitioner is the absolute owner of the property, measuring to an extent of 1455 sq.ft., situated at New No.4, Appavu Gramani, Mandaveli, Chennai-600 028. While so, the third respondent has encroached upon the petitioner's property and constructed a pucca building and sump in his land. In this regard, the petitioner lodged a complaint to the local police to remove the encroachment and un-authorised construction. Since no action has been taken, the petitioner has given a representation dated 05.03.2020 to respondents 1 and 2. As there was no response, he is before this Court.

3.Learned Standing Counsel appearing for respondents 1 and 2 submitted that it is a private dispute between the petitioner and the third respondent and a notice was also issued to the petitioner and the third respondent seeking planning permission along with the relevant title, but till date, the official respondents have not received any response from them. Therefore, if any illegal encroachment is found, they would take necessary action against the encroacher.

4.Learned counsel for the third respondent submitted that already the third respondent had filed an Original Suit in O.S. No.9512 of 2019 before the VIII Assistant Judge, City Civil Court, Chennai seeking permanent injunction restraining the defendant from interfering into his peaceful enjoyment over the XY pipe (sewerage line) embedded in the passage runs towards from South-North direction laid in the adjacent to the plaintiff's property, situated at No.8, Appavu Gramani, Robertsonpet, Brodies Road, Mylapore, Chennai. Since the petitioner's father in law remained exparte, the matter is ripened for trial and the same is posted on 26.04.2022 for framing of issues.

5.Since the third respondent has filed an Original Suit in O.S. No.9512 of 2019 before the VIII Assistant Judge, City Civil Court, Chennai seeking permanent injunction restraining the defendant from interfering into his peaceful enjoyment and both the parties have requested us to give a direction to the learned VIII Assistant Judge, City Civil Court, Chennai to dispose of the above suit, we hereby direct the learned VIII Assistant Judge, City Civil Court, Chennai to dispose of the Original Suit in O.S. No.9512 of 2019, on merits and in accordance with law, within a period of four months from the date of receipt of a



copy of this order. After the disposal of the above suit, it is open to the Corporation to take necessary action with regard to the un-authorised construction, if any.

6. With the above direction, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

vga

To

1. The VIII Assistant Judge,
City Civil Court,
Chennai.

2. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003.

3. The Managing Director,
Chennai Metropolitan Water Supply and
Sewerage Board,
Chennai.

+1cc to Mr.R.Sreedhar, Advocate Sr.No.19610

+1cc to Mr.K.Raja Shrinivas, Advocate Sr.No.19629

W.P.No.11645 of 2020

GSM(CO)
RVM(07/04/2022)