



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.12178 of 2019 and WMP.No.12451/2019

C.K.Amirthavalli Thayarammal

... Petitioner

-vs-

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

2. The Secretary to Government,
Local Administration Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 008.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, forbearing the respondents, their men, agents from in any manner encroaching upon the property owned by the petitioner in Door No.5, R.S.No.239, Venkatachalapathy Pillai Street, Chetpet, Chennai insofar as it is against the petitioner.

For Petitioner : Mr.V.Balasubramanian

For 1st Respondent : Mrs.B.Manimegalai,
Standing Counsel

For 2nd respondent : Mr.K.V.Sajeev Kumar, Spl.G.P.

ORDER

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

This Writ Petition has been filed seeking to issue a Writ of Mandamus, forbearing the respondents, their men, agents from in any manner encroaching upon the property owned by the petitioner in Door No.5, R.S.No.239, Venkatachalapathy Pillai Street, Chetpet, Chennai insofar as it is against the petitioner.



2. The affidavit filed in support of the writ petition shows that the petitioner is a daughter of late C.Kandasamy who owned extensive immovable properties and gifted most of the properties to the Charitable and Educational Institutions and he also made a testamentary disposition in favour of his daughter Mrs.C.K.Amirthavalli Thayarammal/the petitioner herein by way of a Will dated 21.05.1948. The two properties bequeathed under the said Will, have become operative after the death of the testator. This was also probated in O.P.No.278/1948 by an order dated 24.9.1948 by this Court. Therefore, it is pleaded that the petitioner is the sole legatee. When the petitioner and other members of her family objected to a proposed construction being carried out, a representation dated 14.02.2019 was given stating that an attempt has been made to encroach a portion of her property. But the respondents have not heeded to her representation. Therefore, she has been advised to come to this Court.

3. First of all, the writ petition is not at all maintainable. The reasons being that firstly, though the petitioner claims that a representation dated 14.02.2019 has been given to the respondents, a copy of the same has not been enclosed with the typed set of papers filed along with the writ petition to see whether any such representation has been given. Besides, an acknowledgment proving the factum of giving representation by the petitioner to the respondents also has not been enclosed along with the typed set of papers. Secondly, the allegation made by the petitioner shows that some people made an attempt to encroach a portion of her property, but the affidavit does not disclose the names of the encroachers or violaters. Thirdly, paragraph No.6 of the counter affidavit filed by the 1st respondent, namely, the Corporation of Chennai clearly says that the Greater Chennai Corporation is not encroaching upon any portion of the property belonging to the private individuals including the petitioner herein. In view of all the above, it will be highly difficult for this Court to direct the respondents 1 and 2 to take action on the representation of the petitioner dated 14.02.2019, if it is really given.

4. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.
2. The Secretary to Government,
Local Administration Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 008.

+1cc to M/s.V.Balasubramanian, Advocate, S.R.No.17216

+1cc to M/s.B.Manimegalai, Advocate, S.R.No.17206

+1cc to the Special Government Pleader, S.R.No.17796

W.P.No.12178 of 2019

SKM(CO)
SU(29/03/2022)