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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.18395 of 2021
and
W.M.P.No.19609 of 2021

A.Samiullah

... Petitioner

-vs-

1.The Commissioner,
Greater Chennai Corporation,
Ribbon Building, Chennai - 600 002.

2.The Executive Engineer,
Zone - 5, Basin Bridge,
Chennai - 79.

3.The Zonal Officer,
Zone - 5, Basin Bridge,
Chennai - 600 021.

4.V.N.Faritha Banu
5.V.N.Syed Ibrahim

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents 1 to 3 to remove the encroachment over B.C. Press Road 1st Lane, Royapuram, Chennai - 600 013 measuring 71x4 Sq. ft. made by the respondents 4 and 5, being maintained by Chennai Corporation since 1928 till date and restore the same to its original position.

For Petitioner : Mr.K.Raja

For Respondents : Mr.R.Gopinath,
1 to 3 Standing Counsel

For Respondent 4 & 5 : Mr.D.Abdullah



ORDER

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

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The petitioner, Mr.A. Samiullah, has filed this Writ Petition for issuance of Writ of Mandamus under Article 226 of the Constitution of India directing the respondents 1 to 3 to remove the encroachment over B.C. Press Road 1st Lane, Royapuram, Chennai - 600 013 measuring 71x4 Sq. ft. made by the respondents 4 and 5, as it is being maintained by Chennai Corporation since 1928 till date and restore the same to its original position.

2.Mr.K.Raja, learned Counsel appearing for the petitioner submitted that the respondents 4 and 5, who are the neighbours of the petitioner, have encroached a portion of the common lane vested with the Chennai Corporation. He further submitted that the respondents 4 and 5 have fabricated the documents and obtained patta for the said land and started constructions. In support of the prayer made in this Writ Petition, the petitioner filed a typed set of papers and additional typed set of papers containing Will and Settlement Deeds of the petitioner's predecessor and the predecessor of the fourth and fifth respondents.

3.Denying the above submission, Mr.D.Abdullah, learned Counsel for the respondents 4 and 5 filed a detailed counter and typed set of papers containing Receipt for payments of Building Plan approval fee, Planning Permission, Planning permission issued to the petitioner reply by Public Information Officer and photographs of the existing building and FMB sketch.

4.A perusal of the documents shows that there is a civil dispute between the petitioner and the respondents 4 and 5 which has to be adjudicated before the appropriate civil court. Hence, this writ petition fails and the same is dismissed. Liberty is given to the petitioner to approach the competent Civil Court, if so advised. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

srm



To

1.The Commissioner,
Greater Chennai Corporation,
Ribbon Building, Chennai - 600 002.

2.The Executive Engineer,
Zone - 5, Basin Bridge,
Chennai - 79.

3.The Zonal Officer,
Zone - 5, Basin Bridge,
Chennai - 600 021.

+1cc to Mr.K.Raja, Advocate SR.No.10209

+1cc to Mr.D.Abdullah, Advocate SR.No.10180

W.P.No.18395 of 2021

AD(CO)
GMY(10/03/2022)