



W.P.No. 20044 of 2022
and
Cont.P.No. 405 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.09.2022

C O R A M

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

W.P.No. 20044 of 2022
and
Cont.P.No. 405 of 2022

W.P.No. 20044 of 2022

Mrs. Kavitha

....Petitioner

Versus

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600001.
2. The Executive Engineer,
Zone -VIII,
The Greater Chennai Corporation,
Chennai – 600 001.
3. The Assistant Engineer,
Zone- VIII, Division- 99,
The Greater Chennai Corporation,
Chennai – 600 001.
4. D. Rajasekaran

...Respondents



W.P.No. 20044 of 2022
and
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D. Rajasekaran

vs

....Petitioner

1. Mr. Gagandeep Singh Bedi, IAS
The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai – 600003.
2. Mr. Vaithiyalingam,
The Executive Engineer,
Zone No. VIII,
Corporation of Chennai,
I Block, Anna Nagar,
Chennai – 600040.
3. Mr. V.G. Ramaswamy B.E.,
The Executive Engineer,
Chennai Metropolitan Water Supply and
Sewage Board, Zone No. VIII,
No. 227, 2nd Avenue, 12th Main Road,
Anna Nagar, Chennai 600040.
4. Mrs. Kavitha
No.10, Thangam Colony 1st Street,
Anna Nagar West, Chennai 600040.

...Respondents



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PRAYER in W.P.No. 20044 of 2022 : Writ Petition filed under article 226 of the Constitution of India, for the issuance of a writ of Mandamus, directing the second and third respondents to take action against the illegal construction put up by the fourth respondent at Plot No.11, North Crescent Road, 1st Street, H Block, Thangam Colony, by encroaching into the petitioner's property approximately to an extent of 120 sq.ft in utter violation of the rules mandated under the Tamil Nadu Town and Country Planning Act and the Common Building Rules, 2019 on the basis of the petitioner's representation dated 06.07.2022.

PRAYER in Cont.P.No. 405 of 2022: Petition filed under Section 11 of the Contempt of Courts Act, to punish the respondents for the willful, intentional disobedience and failure to comply with the order of this Court dated 08.07.2021 made in W.M.P.No.14979 of 2021 in W.P.No.14102 of 2021.

W.P.No. 20044 of 2022:

For Petitioner : Mr. L. Chandrakumar
For Respondents : Mr. Arun Dhanapalan
for Mr. D.B.R Prabhu
Standing Counsel for R1 to R3

Cont.P.No. 405 of 2022:

For Petitioner : Mr.S. Gopinathan
For Respondents : Mr. Arun Dhanapalan
for Mr. D.B.R Prabhu
Standing Counsel for R1 and R2
Mr. L. Chandrakumar
for R4



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W.P.No. 20044 of 2022
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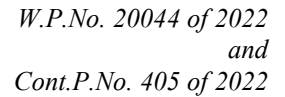
COMMON ORDER

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

W.P.No. 20044 of 2022 has been filed by the petitioner seeking a mandamus directing the respondents to take action against the alleged unauthorised construction put up by the fourth respondent therein.

2. According to the petitioner, the fourth respondent herein has been constructing over the property without the statutory permissions that are required to be taken and the authorities are not taking any action against the fourth respondent. It is seen from the typed set of papers itself that the authorities have issued a lock and seal notice to the petitioner claiming that she is putting up construction in violation of the approved plan.

3. Mr. Arun Dhanapalan, learned counsel representing the Standing Counsel for the Greater Chennai Corporation had filed a status report, wherein it is stated that further action could not be taken due to the pendency of this writ



4. W.P.No. 14102 of 2021, has been disposed of on 21.01.2022, finding that the authorities had taken action by issuing notice and the fifth respondent had also filed special revision under Section 80-A of the Tamil Nadu Town and Country Planning Act. It is stated that the Corporation had issued notices to the fourth respondent in W.P.No. 20044 of 2022, also directing him to stop further construction as they are in violation of the approved plan.



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5. We are informed that the Commissioner appointed to find out the actual encroachment has, after inspecting the property, filed a report stating that both the petitioners herein and the fourth respondent had encroached upon each other's property. The dispute which commenced as unauthorised construction has now become a dispute interse between the petitioner and the fourth respondent which has to be decided only by a Competent Civil Court and this Court sitting under Article 226 cannot go into the disputed questions of fact and decide a private title dispute. Hence the contempt petition is closed.

6. W.P.No. 20044 of 2022 is disposed of with a direction to the respondents to pursue the action taken by them under the provisions of the Tamil Nadu Town and Country Planning Act to its logical conclusion. No costs.

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

27.09.2022

Index : Yes / No
Internet: Yes
Speaking/non speaking order
mrn

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