



WEB COPY

W.P.No.10166 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.10166 of 2018

and

W.M.P.No.12113 of 2018

A.Devaneethi

.. Petitioner

Vs.

- 1.The Secretary,
Housing and Urban Development Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The Commissioner,
Chennai Municipal Corporation,
Ripon Buildings, Park Town,
Chennai – 600 003.
- 3.The Joint Commissioner,
Chennai Municipal Corporation,
Central Zone, No.128, Pulla Avenue,
Thiru. Vee. Kaa Park,
Shenoy Nagar,
Chennai – 600 030.
- 4.The Zonal Officer,
Zone – VII, Corporation of Chennai,
Ambattur,
Chennai – 600 053.



5. John Albert,
Proprietor,
Ravindra Bharathi Global School,
No.432, Ward 93,
Zone – VII, East Mogappair,
Chennai – 600 037.

6. The Member Secretary,
CMDA, Egmore,
Chennai.

.. Respondents

(R6 impleaded as per order of this Court dated
27.08.2018, made in W.P.No.10166 of 2018)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to remove the unauthorised construction put up by the 5th respondent at the petitioner's lands in all measuring 9 cents comprised in Survey No.199/2, Mogappair Village, Ambattur Taluk, Tiruvallur District and restore the same to him and consequently deal with the said 5th respondent according to law.

For Petitioner	: Mr.D.Ashok Kumar
For R1	: Mrs.R.L.Karthika Government Advocate
For RR 2 to 4	: Mr.G.T.Subramanian Standing Counsel
For R5	: Mr.Venkatramani Senior Counsel for Mr.M.Muthappan
For R6	: Mr.C.N.Vinobha Standing Counsel



WEB COPY

W.P.No.10166 of 2018



ORDER

(Order of the Court was delivered by V.M.VELUMANI,J.)

The petitioner has come out with the present Writ Petition for a direction to the respondents 1 to 4 to remove the unauthorised construction put up by the 5th respondent in his land measuring 9 cents comprised in Survey No.199/2, Mogappair Village, Ambattur Taluk, Tiruvallur District and restore the same to him and consequently deal with the 5th respondent according to law.

2.According to petitioner, he is the owner of the property measuring 9 cents in Survey No.199/2, situated at Mogappair Village, Ambattur Taluk, Tiruvallur District. The 5th respondent is owner of the adjoining property. The 5th respondent encroached the petitioner's property and put up construction unauthorizedly without obtaining any permission or approval from the respondents 2 to 4. The petitioner gave representation to the respondents 2 to 4 on 06.04.2018 against the unauthorised construction put up by the 5th respondent. Since, no action has been taken by the respondents 2 to 4, the petitioner has come out with the present Writ Petition.

3.The 4th respondent filed counter affidavit and submitted that on



WEB COPY

receipt of the complaint from the petitioner, the site in question was inspected by the Assistant Executive Engineer, Unit – 20, Zone-VII, Greater Chennai Corporation on 29.05.2018 and it was found that the 5th respondent has constructed the building in question without any approval. Immediately after inspecting the site in question, Stop Work Notice, dated 31.05.2018 was issued under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 and another notice dated 14.06.2018 was also issued. In the meantime, the 4th respondent also addressed a letter dated 19.06.2018 to the Tahsildar, Ambattur Taluk to furnish the details with regard to land in question. After expiry of the statutory period of notice issued to 5th respondent, the respondents 2 to 4 will proceed further and prayed for passing suitable orders.

4.The 5th respondent filed counter affidavit. The learned Senior Counsel appearing for the 5th respondent submitted that the 5th respondent is owner of the property and the building in question was constructed in the year 1997. For regularisation of the building, application was filed as early as in the year 1999. The 6th respondent considered the said application and directed the 5th respondent to pay necessary fees for regularisation. The regularisation fees claimed by the 6th respondent was



very high and hence, the 5th respondent filed application for reconsideration. The said application for reconsideration was rejected by the 6th respondent. Now, the revision filed by the 5th respondent before the Government is pending and prayed for dismissal of the Writ Petition.

5. Heard the rival submission of the parties and perused the entire materials on record.

6. Both the petitioner and 5th respondent claims title over the property in question. The issue before this Court is not with regard to title of the property. From the materials on record, it is seen that it is the case of the petitioner that the 5th respondent has constructed the building unauthorizedly without any permission and approval. The 5th respondent has admitted that he is not having approval for the building in question and he has filed application before the Chennai Metropolitan Development Authority for regularisation and the said application was rejected. The Revision filed by the petitioner also rejected. Further, the 4th respondent has inspected the site and issued two notices in the year 2018 for locking and sealing of the building. In the counter affidavit filed in the year 2018, the 4th respondent has stated that they will proceed further against the 5th respondent after getting report from the Tahsildar,



Ambattur Taluk.

W.P.No.10166 of 2018



WEB COPY

7.Considering the above submissions of the learned counsel appearing for the parties and that the revision filed by the 5th respondent is rejected by the 1st respondent, without deciding the issue with regard to title of the property, the respondents 2 to 4 are directed to proceed further as per the earlier notices dated 31.05.2018 and 14.06.2018 and take action in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

8.With the above directions, the Writ Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

(V.M.V., J) (R.H., J)
24.02.2023

krk

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

<https://www.mhc.tn.gov.in/judis>



1.The Secretary,
Housing and Urban Development Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai – 600 009.

2.The Commissioner,
Chennai Municipal Corporation,
Ripon Buildings, Park Town,
Chennai – 600 003.

3.The Joint Commissioner,
Chennai Municipal Corporation,
Central Zone, No.128, Pulla Avenue,
Thiru. Vee. Kaa Park,
Shenoy Nagar,
Chennai – 600 030.

4.The Zonal Officer,
Zone – VII, Corporation of Chennai,
Ambattur, Chennai – 600 053.

5.The Member Secretary,
CMDA, Egmore,
Chennai.

V.M.VELUMANI, J.
and

R.HEMALATHA, J.



WEB COPY

W.P.No.10166 of 2018



krk

W.P.No.10166 of 2018

24.02.2023