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Writ Petition No.8097 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.8097 of 2023

and

W.M.P.No.8354 of 2023

P.M.Rajasekaran
S/o.P.N.Muthukrishnan

... Petitioner

Vs.

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

2.The Commissioner,
Land and Possession Department,
Ribbon Building,
Chennai - 600 003.

3.The Executive Engineer,
Greater Chennai Corporation,
Zone-5, No.61, Basin Bridge Road,
Chennai - 600 021.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus restraining the respondents from interfering with the petitioner's property situated at S.No.1272/55, at Veperiy Village, having an extent of 1080 Sq.ft. at No.296, Walltox Road, Park Town, Chennai.



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For Petitioner : Mrs.Sumithra
for Mr.K.Abdul Owais
For Respondents : Mrs.P.T.Ramadevi

ORDER

The petitioner has approached this Court for a direction to restrain the respondents from interfering with the possession and enjoyment of the subject property situated at S.No.1272/55, at Vepery Village, having an extent of 1080 Sq.ft. at No.296, Walltox Road, Park Town, Chennai.

2. The case of the petitioner is that the subject property originally belonged to his great grand father and ultimately, the property devolved upon the petitioner and he is in possession and enjoyment of the same. The grievance of the petitioner is that the officers belonging to the respondent Corporation by taking advantage of the absence of the petitioner proceeded to interfere with the possession and enjoyment of the property and are attempting to put up a superstructure in the property. Aggrieved by the same, the present writ petition has been filed before this Court.

3. Heard Mrs.Sumithra, learned counsel for the petitioner and



Mrs.P.T.Ramadevi, learned counsel appearing for respondents.

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4. On an earlier occasion, the petitioner approached this Court with a similar grievance by filing W.P.No.17768 of 2010. The said writ petition was dismissed by an order dated 07.03.2012. Aggrieved by the same, the petitioner filed a writ appeal in W.A.No.2006 of 2012. The Division Bench of this Court allowed the writ appeal by an order dated 30.10.2012 and the relevant portions are extracted hereunder:

'4. From the averments made in the counter affidavit, it is evidently clear that the lease originally granted in favour of grandfather of the appellant has not been denied or disputed. It has also not been denied or disputed that the appellant and before him, his father and grandfather have been put in continuous possession of the land together with the superstructure. So far as the demand with regard to property tax and water tax is concerned, the appellant/petitioner has annexed documents showing that right from the year 1993, the Corporation has been collecting water tax, property tax, arrears of lease rent, etc. This fact has also not been denied or disputed by the Corporation.

5. On these facts, in our considered opinion, the learned Single Judge has committed a grave error of law in refusing to exercise jurisdiction and directing the appellant/writ petitioner to file a Civil Suit. The Corporation being the statutory authority has no right to act in such a highhanded manner inasmuch as the respondent, without passing any final order under the aforementioned Act and without giving any opportunity of hearing to the appellant, demolished the superstructure and threw all the belongings of the appellant. It is therefore a fit case, where not only the appellant should be restored possession of the land but shall also be paid compensation for the structure illegally demolished by the Corporation.



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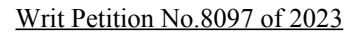
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6. We, therefore, allow this writ appeal, set aside the order passed by the learned Single Judge and issue a direction upon the respondent Corporation to immediately and forthwith restore possession of the land within a period of two weeks from the date of receipt of a copy of this order and also pay a compensation of Rs.2 lakhs (Rupees two lakhs only) to the appellant/writ petitioner for the alleged demolition of the superstructure and damaging the belongings.'

5. It is clear from the above order that this Court had prevented the respondent Corporation from taking over possession of the property and directed restoration of the property in favour of the petitioner. Accordingly, the property was also restored and the petitioner was also in possession and enjoyment of the property.

6. The petitioner has alleged that taking advantage of his absence, the respondent Corporation is attempting to put up superstructure in the property. Learned Standing Counsel appearing on behalf of the Corporation submitted that no such attempt has been made and the property continues to be in possession and enjoyment of the property. Learned Standing Counsel further submitted that the property belongs to the Corporation and that the petitioner has been squatting upon the property.

7. In the considered view of this Court, there is no dispute with



In the result, this writ petition stands allowed as prayed for. No
 consequently, connected miscellaneous petition is also closed.

17.04.2023

Neutral Citation: Yes/No
Index: yes/no
Speaking Order/Non-Speaking Order
gm

N.ANAND VENKATESH, J



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To

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