



W.P.No.11349 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.11349 of 2021
and
W.M.P.No.11996 of 2021

Appandu

...Petitioner

VS

1. The Secretary to Government
Housing and Urban Development Department,
Secretariat,
Chennai-9.
2. The Member Secretary,
CMDA, Thalaimuthu Natarajan Maligai,
Egmore,
Chennai - 8.
3. The Commissioner,
Corporation of Greater Chennai,
Chennai - 3.
4. The District Collector,
Rajaji Salai,
Chennai - 1.
5. The Regional Deputy Commissioner,
Corporation of Chennai,



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No.12B, Central Zone,
2nd Cross Street (East), Pulla Avenue,
Thiru-Vi-Ka.Park, Shenoy Nagar,
Chennai - 30

6. The Executive Engineer,
Corporation of Chennai,
Central Zone (VIII),
2nd Cross Street (East), Pulla Avenue,
Thiru-Vi-Ka.Park, Shenoy Nagar,
Chennai - 30.

7. The Assistant Engineer,
Corporation of Chennai,
Division No.106,
Narasimman Street,
Collectorate Colony,
Chennai - 29.

8. Mrs.Devaki,
D/o Elumalai

9. M.E.Anandaraj,
S/o Elumalai
R8 & R9 both are residing at
Door No.17/20, Siraji Street,
Ayyavoo Naidu Colony,
Aminjikarai,
Chennai - 29.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents 1 to 7 herein to dispose of the petitioner's representation dated 29.01.2021 and 23.04.2021 submitted for taking appropriate action as against the respondents 8 and 9 for removal of encroachment in Siraji Street and also for demolition of unlawful construction



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of house building at No.17/20, Siraji Street, Ayyavoo Naidu Colony, Aminjikarai, Chennai-29.

For Petitioner : Mr.CKM Appaji

For Respondent : Mr.Stalin Abimanyu,
Additional Government Pleader
for R1 & R4
Mrs.Veena Suresh
Standing Counsel for R2
Mr.E.C.Ramesh,
Standing Counsel for R3,R5 to R7
Mr.P.Sreeivasulu for R8 & R9

ORDER

This writ petition has been filed seeking to issue a Writ of Mandamus to direct the respondents 1 to 7 herein to dispose of the petitioner's representation dated 29.01.2021 and 23.04.2021 submitted for taking appropriate action as against the respondents 8 and 9 for removal of encroachment in Siraji Street and also for demolition of unlawful construction of house building at No.17/20, Siraji Street, Ayyavoo Naidu Colony, Aminjikarai, Chennai-29.

2. The case of the petitioner is that he is the owner of property at Old No.19/3, New T.S.No.51/6, block No.24, Arumbakkam Village, Aminjikarai Taluk, Chennai, measuring an extent of 1470 sq.ft. He purchased the said property in the year 1983 and constructed a house and residing there along with his family. There is a 5 feet width common pathway/passage comprised



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in Old No.19/3, New S.No.51/3, and S.No.51/6 for usage of Plot owners in S.Nos.51/3 and 51/6. The main allegation of the petitioner is that 8th and 9th respondents, who are claiming to be the owners of his adjacent property, have illegally constructed buildings, without getting proper planning approval and totally encroached the above said 5 feet width common pathway. In this regard, the petitioner made representations dated 29.01.2021 and 23.04.2021 to the official respondents. Since no action was taken by the respondents, the present writ petition has been filed.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. Learned counsel for the petitioner would state that as per the parent document relied on by the petitioner, in Document No.4792/1967 and 4831/1973, the 5 feet land have been left for common passage but the 8th and 9th respondents have totally encroached the above said 5 feet width common passage. However, the learned counsel appearing for the 8th and 9th respondents disputes the same.

5. In any event, as the petitioner has chosen to raise dispute as to the title over the 5 feet passage, we are of the view that the said dispute can be agitated only before an appropriate Civil Forum and certainly, this Writ Court



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cannot go into such title dispute and consider the present relief sought for in this writ petition.

6. Therefore, we find that the present Writ Petition, based on the above stated facts and circumstances, cannot be entertained. Accordingly, the Writ Petition fails and the same is dismissed, however, by leaving the parties to work out their remedy before the appropriate forum in a manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B., J.) (N.M., J.)
12.12.2023

vsi

Index : Yes / No

Internet : Yes / No

To

1. The Secretary to Government
Housing and Urban Development Department,
Secretariat,
Chennai-9.
2. The Member Secretary,
CMDA, Thalaimuthu Natarajan Maligai,
Egmore,
Chennai - 8.
3. The Commissioner,
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4. The District Collector,
Rajaji Salai,
Chennai - 1.
5. The Regional Deputy Commissioner,
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J. NISHA BANU, J.
and
N.MALA, J.



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