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W.P.No.10842 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE N.MALA**

**W.P.No.10842 of 2020
and W.M.P. No.13167 of 2020**

M.Sathiavani Muthu

... Petitioner

Vs.

1.The Assistant Executive Engineer
Tamil Nadu Electricity & Distribution Board
Chinnappanaickenpalayam
Komarapalayam – 638 183
Namakkal District.

2.The Commissioner of Municipal
Office of Municipality
Komarapalayam – 638 183.
Namakkal District.

3.Ravi

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents 1 and 2 to take appropriate action in accordance with law as against the 3rd respondents illegal construction of building in T.S.No.52/1E,52/2E and F, Ward-B,Block - 32, Door No.3, East Sandaipet, Komarapalayam Town by considering the



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petitioner's representation dated 21.07.2020.

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For Petitioner : Mr.R.Marudhachalamurthy
For Respondents : Mr.E.Vijay Anand
Additional Government Pleader
for R2
Mr.S.K.Kathirselvan
Standing Counsel for R1
Mr.C.S.Saravanan for R3

ORDER

(Order of the Court was made by J.NISHA BANU, J.,)

This Writ Petition has been filed to direct the respondents 1 and 2 to take appropriate action in accordance with law, as against the illegal construction done by the 3rd respondent in T.S.No.52/1E,52/2E and F, Ward-B,Block - 32, Door No.3, East Sandaipet, Komarapalayam Town by considering the petitioner's representation dated 21.07.2020.

2.The learned counsel for the petitioner would submit that the petitioner is the absolute owner of the property in T.S.No.52/1E, 52/2E & F, Ward – B, Block – 32, Door No.3, East Sandaipet, Komarapalayam Town. The 3rd respondent's property is situated on the northern side of the petitioner's property. According to him, there is a common wall between the properties of



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3rd respondent and the petitioner, which runs east to west, likewise other north south common walls are situated on the east and west side of the petitioner's property. Both the petitioner and the 3rd respondent have equal shares in the said common walls. There is high tension electric line passing through on the western side of the said property.

3. According to the petitioner, the 3rd respondent has made construction in his property, by increasing the western side wall and the same is almost touching the electric line passing through on the western side. When the petitioner also has equal right in the western side common wall, if the ongoing construction made by the 3rd respondent causes any untoward incident, the petitioner apprehends that he will also be held liable. Therefore, the petitioner sent a notice through her Advocate about the illegality committed by the 3rd respondent to the respondents 1 and 2. She also sent detailed representation to the respondents 1 and 2 on 21.07.2020. Since no action has been taken on the side of the official respondents the petitioner has filed the present Writ Petition seeking the above relief.



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4.The learned Additional Government Pleader appearing for the 1st respondent filed status report before this Court, wherein it has been stated the 3rd respondent has encroached on the land which belonged to the Municipality and therefore, a notice dated 18.08.2023 under Section 123 of the Tamil Nadu Urban Local Authorities Act, 1998 (Amended Act 35/2022) has been issued to the 3rd respondent, to remove the unauthorised construction within a period of 15 days.

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

6.In view of the submission made by the learned Additional Government Pleader and also the fact that notice has been issued under Section 123 of the Tamil Nadu Urban Local Authorities Act, 1998 (Amended Act 35/2022), this Court without expressing any opinion on the merits of the matter, directs the respondents 1 and 2 to complete the further action, after affording reasonable opportunity to all the parties concerned, within a period of eight weeks from the date of receipt of a copy of this order.



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7. With the above direction, this Writ Petition stands disposed of. No costs. Consequently connected miscellaneous petition is closed.

(J.N.B.,J.) (N.M., J.)
15.09.2023

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Index : Yes / No
Internet : Yes / No
Speaking order/Non-speaking order
Neutral Citation : Yes / No

To

1. The Assistant Executive Engineer
Tamil Nadu Electricity & Distribution Board
Chinnappanaickenpalayam
Komarapalayam – 638 183
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J. NISHA BANU, J.
and
N.MALA, J.

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