



W.P.No.14331 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

Writ Petition No.14331 of 2019 and
W.M.P.Nos.14392 to 14394 of 2019

P.S.Srinivasan

.. Petitioner

Vs.

- 1.The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600 003.
- 2.The Assistant Executive Engineer,
Greater Chennai Corporation,
Zone-9, Chennai.
- 3.Zonal Officer,
Zone-IX,
Teynampet,
No.4, 4th Cross Street,
Lake View Road,
Chennai – 600 034.
- 4.The Executive Engineer,
Greater Chennai Corporation,
Zone-9, Chennai.



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5.The Chennai Metropolitan Development Authority,
rep. by its Member Secretary,
Thalamuthu Natarajan Maligai,
Gandhi Irwin Road,
Egmore, Chennai – 600 008.

6.The Assistant Engineer,
TANGEDCO,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.

7.Sri Sundara Vinayagar,
Sri Selva Vinayagar and
Sri Anjaneyar Devasthanam,
No.87, Royapettah High Road,
Mylapore,
Chennai – 600 004.

8.M.Loganathan

.. Respondents

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 5 to demolish and permanently remove the illegal, unsanctioned and un-authorised construction carried out by the 8th respondent at No.17/39, Veeraperumal Koil Street, Mylapore, Chennai – 600 004.

For Petitioner	: Mr.J.Stanlin
For R1 to R4	: Mr.A.C.Manibharathi
For R5	: Mr.R.Sivakumar Standing Counsel
For R6	: Mr.L.Jai Venkatesh Standing Counsel



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For R7 : Mr.Y.Rajeevi

For R8 : Mr.Prakash Gallaney

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 respondents 1 to 5 to demolish and permanently remove the illegal, unsanctioned and un-authorised construction carried out by the 8th respondent at Door No.17/39, Veeraperumal Koil Street, Mylapore, Chennai – 600 004.

2.According to the petitioner, he is a resident of No.2/34, Veerabadran Street, Mylapore, Chennai-600 004. The 7th respondent owns various properties in the said locality and leased out the same to several persons. Originally, the property situated at Door No.17/39, Veeraperumal Koil Street was leased out to one Narayanasamy Chettiar. Thereafter, his son Narasimhalu Chettiar inherited the above property. After the death of Narasimhalu Chettiar, his wife Jayalakshmiammal inherited the property. Thereafter, one T.Duraibabu, who succeeded the property by way of a Settlement Deed dated 24.12.1974, has filed an Original Suit in O.S. No.2184 of 1978 before the XIX Assistant Judge,



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City Civil Court, Madras against one Selvanayagi Ammal and the same has been decreed in his favour. As against the same, an Appeal Suit in A.S. No.360 of 1988 has been filed and the same was allowed. Challenging the above, Second Appeal No.443 of 1989 has been filed before this Court. By judgment and decree dated 06.06.2013 in the above Second Appeal, this Court directed the occupant, namely, Selvanayagi Ammal to hand over the possession within a period of two months. While so, the 8th respondent, who is no way connected with the above property, has been putting up un-authorised construction at Door No.17/39, Veeraperumal Koil Street, Mylapore, Chennai, without any approval and building plan from the authorities concerned, thereby, causing air pollution and also hardships to the general public, including the petitioner. In this regard, the petitioner made a representation to the official respondents requesting them to remove such illegal construction. Since no action was taken by them, the petitioner has come out with the present writ petition for the above stated relief.

3.Reiterating the averments made in the counter affidavit, filed by the 8th respondent, learned counsel for the 8th respondent submitted that due to the dispute between the petitioner and the 8th respondent, the



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present writ petition has been filed by the petitioner. According to the 8th respondent, there was a constructed portion, which has been constructed by his aunt Selvanayagi in accordance with the approved plan and she was in occupation till her life time. The 8th respondent has only made repairs and alterations in the said construction. According to the 8th respondent, he is the owner of the property and he has put up construction, after obtaining necessary planning permission from the authorities concerned and therefore, the learned counsel for the 8th respondent prayed for dismissal of this petition.

4.A counter affidavit has been filed by the 7th respondent. Learned counsel for the 7th respondent submitted that the 7th respondent is not the owner of the property and he is no way connected with the said property.

5.Heard the learned counsel appearing for the petitioner, learned counsel appearing for respondents 1 to 4, learned Standing Counsel appearing for the fifth respondent, learned Standing Counsel appearing for the sixth respondent, learned counsel for the seventh respondent and the learned counsel for the eighth respondent and perused the materials on record.



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6.From the materials on record, it is seen that the petitioner has stated that the 8th respondent has made un-authorised construction in the property situated at Door No.17/39, Veeraperumal Koil Street, Mylapore, Chennai-600 004, without any approval from the competent authority. It is the case of the petitioner that the 8th respondent, who is not a lessee to the above property, is no way connected to the above property and the illegal construction put up by him is without any approval from the authorities concerned. Further, the petitioner has made various averments with regard to title of the property.

7.It is the case of the 8th respondent that his aunt Selvanayagi has constructed a portion in the above property in accordance with the approved plan and she was in occupation till her life time and he has made only repairs and alterations in the said construction.

8.Considering the nature of relief sought for in the Writ Petition, without deciding the issue with regard to title of the property, this Court directs respondents 1 to 5 to inspect the property in question and also the other properties in the said street in S.No.1696/1 after issuing notice to the petitioner as well as 8th respondent and the occupiers/owners of the



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property in question, within a period of two weeks from the date of receipt of a copy of this order and if there is any un-authorised construction, take action against the 8th respondent, within a period of four weeks thereafter.

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

(V.M.V., J) (V.L.N., J)
28.03.2023

Index : Yes / No
Neutral Citation : Yes / No

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**V.M.VELUMANI,J.
and
V.LAKSHMINARAYANAN,J.**

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To

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