



W.A.No.1404 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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Jains Pebble Brook Flat Owners Association,
rep. by its President,
Having registered office at Jains Pebble Block,
Madha Koil Street, Okkyampet, Thoraipakkam,
Chennai-600 097.

.. Appellant

Vs.

- 1.The Tahsildar,
Sholinganallur, Taluk Office,
New Kumaran Nagar,
Sholinganallur, Chennai-600 119.
- 2.The Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maaligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.
- 3.M/s.Hevea Engineers Pvt. Ltd.,
rep. by its Managing Director,
No.118, Pillayar Koil Street,
Okkiyampet, Thuraipakkam,
Chennai-600 096.

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4.Sunil Varghese

.. Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge dated 8.2.2022 made in W.P.No.1931 of 2022.

For the Appellant : M/s.Rohini Ravikumar

For the Respondents : Mrs.R.Anitha
Spl. Government Pleader
for respondent No.1

: Mrs.Veena Suresh
Standing Counsel
for respondent No.2

: Mr.Richardson Wilson
for respondents 3 and 4

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard M/s.Rohini Ravikumar, learned counsel for the appellant; Mrs.R.Anitha, learned Special Government Pleader for the first respondent; Mrs.Veena Suresh, learned Standing Counsel for the second respondent; and, Mr.Richardson Wilson, learned counsel for respondents 3 and 4.

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2. The appellant/writ petitioner has filed the writ petition challenging the survey report dated 25.1.2021.

3. Learned counsel for the appellant submits that the survey was conducted behind the back of the appellant, without issuing notice to the appellant and in flagrant violation of the Tamil Nadu Survey and Boundaries Act, 1923. The minimum requirement is that the person interested has to be issued with notice. In the present case, no notice was issued and in a high-handed manner, relying upon the one side report, the wall of the appellant was demolished. The same is illegal. As the principles of natural justice are not followed, the appellant has availed the remedy under Article 226 of the Constitution of India by filing the writ petition. The learned Single Judge did not consider the grievance put forth by the appellant.

4. Upon going through the order passed by the learned Single Judge, it appears that the learned Single Judge observed that

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disputed questions of fact exist and the issue between the parties is civil in nature. The learned Single Judge observed that, if at all the appellant has any grievance, it is open for the appellant to seek appropriate remedy before the competent civil court.

5. In case the appellant is aggrieved by the survey carried out, the appellant has remedy of appeal against the said survey also. If the rights of the appellant are affected because of the survey, the appellant certainly has remedy open before the civil court. The survey report has to be proved before the civil court for it to be admissible. The appellant can establish its rights before the civil court. The learned Single Judge has kept that remedy open. The judgment of the civil court, based on the evidence of the parties, would be binding upon the authorities.

6. In the light of the above, we do not feel that the learned Single Judge has committed any error. The rights of the appellant are kept open to be adjudicated before the civil court.



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7. The writ appeal, accordingly, is disposed of. There will be no order as to costs. Consequently, C.M.P.No.13726 of 2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

10.10.2023

Index : Yes/No

Neutral Citation : Yes/No

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To

1.The Tahsildar,
Sholinganallur, Taluk Office,
New Kumaran Nagar,
Sholinganallur,
Chennai-600 119.

2.The Chennai Metropolitan Development Authority,
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