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W.P.No.2322 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

CORAM

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

W.P.No.2322 of 2021

G.Kuppan

... Petitioner

Vs

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.

2. The Assistant Commissioner,
Greater Chennai Corporation,
Zone - VI, Ward No. 72,
Ayanavaram, Chennai - 600 023.

3. The Assistant Engineer,
Greater Chennai Corporation,
Zone - VI, Ward No. 72, Division No. 17,
V. O. C. Nagar First Street,
Puliyanthope, Chennai - 600 012.

4. Gomathi

... Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the Respondents 1 to 3 to take immediate action for demolition of illegal construction made by the 4th respondent in his property at Plot No. 568, Door No. 1 / 1A, Thiru - Vi - Ka Nagar, 3rd Street, Puliyanthope, Chennai - 600 012 measuring approximately 27 Sq. mtrs in Perambur Taluk, Chennai District

For Petitioner : Mr. J.Pachiyappan

For Respondents : Mrs.P.T. Ramadevi for R1 to R3
Standing Counsel
Mr. S.Gurumoorthy for R4

ORDER

(Order of the Court was made by J.Nisha Banu,J.)

This writ petition has been filed to direct the Respondents 1 to 3 to take immediate action for demolition of illegal construction made by the 4th respondent in the petitioner's property at Plot No. 568, Door No. 1 / 1A, Thiru - Vi - Ka Nagar 3rd Street, Puliyanthope, Chennai - 600 012 measuring approximately 27 Sq. mtrs in Perambur Taluk, Chennai District.



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2.Learned counsel for the petitioner would submit that the 4th respondent is none other than the sister of the petitioner and the land ad measuring to an extent of 0.27.0 sq.m., in S.No.568, Door No.1/1A, at Thiru.Vi.Ka.Nagar, Chennai was allotted by the Tamil Nadu Slum Clearance Board vide proceedings dated March 1984 and on the demise of the petitioner's father, the petitioner continues to be in possession and enjoyment of the same. He would further submit that the 4th respondent and her husband (petitioner's sister and brother-in-law) had trespassed into the premises of the petitioner and started indulging in demolition and also started putting up a construction without any planning permission and in this regard, the Assistant Executive Engineer, Unit-17 and the Assistant Engineer, Division-072 of Greater Corporation of Chennai, had also issued the Stop Work Notice on 09.10.2019 and thereafter, no further action has been taken and taking advantage of the same, further construction has been taken place. The petitioner himself had filed a suit in O.S.No.6243 of 2019 on the file of the XVI Assistant City Civil Court, Chennai seeking permanent injunction and restraining the 4th respondent from trespassing into the subject property and the same is pending. Hence, the present writ petition.



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3.Considering the fact that the dispute is between the brother and sister, this Court referred the matter to the Mediation and Conciliation Centre attached to this Court and directed the parties to appear before the Mediator along with their respective counsel in person on 07.09.2023, but both the parties did not appear before the Mediator and hence, this matter has been posted before this Court.

4. Subsequently, on 04.10.2023, at the instance of the learned counsel for the petitioner, this Court referred the matter for mediation. Pursuant to which, the petitioner appeared before the Mediator for one time and thereafter, he did not appear before the Mediator. Hence, Mediation Report dated 10.10.2023 has been filed by the Mediator stating that mediation completed and no agreement was reached. Therefore, there is no possibility of settlement between the parties even after referring the matter before the Mediation twice.

5. In the present case on hand, the dispute is between the brother and sister, which is a civil dispute. Already a suit in O.S.No.6243 of



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2019 is pending on the file of the XVI Assistant City Civil Court, Chennai, which has been filed by the petitioner against the fourth respondent. In such view of the matter, this Court is of the considered opinion that it would be appropriate for both the petitioner as well as the fourth respondent to agitate the issue in the above suit, if so required. Hence, this writ petition is devoid of merits and stands dismissed accordingly. No costs.

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

30.10.2023

Index : Yes / No
msv

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J. NISHA BANU, J.
and
N.MALA, J.

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