



W.P.No.26125 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.03.2023

CORAM

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

AND

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

W.P.No.26125 of 2022

AND

W.M.P.No.25198 of 2022

C.B.Manokaran

.. Petitioner

Vs.

1.The Commissioner
Corporation of Greater Chennai
Rippon Buildings
Park Town, Chennai 600 003

2.The Executive Engineer
Zone-I
Greater Chennai Corporation
No.266 Thiruvottiyur High Road
Chennai-19

3.The Assistant Executive Engineer
Unit-1, Zone-I, Greater Chennai Corporation
Kathivakkam High Road
Managaratchi Building
Chennai 600 057



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4.The Assistant Engineer
Division-4, Zone-1
Greater Chennai Corporation
Jothi Nagar, 10th Street
Thiruvottiyur
Chennai 600 019

5.The Tahsildar
Tiruvottiyur Taluk
Tiruvallur District
Tiruvottiyur
Chennai 600 019

(R5 suo motu impleaded *vide* order dt.31.1.23)

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus forbearing the respondent from in any manner carrying on any activity including demolition of existing structures and/or construction of a new building *viz.*, Health Centre/Hospital or any other structure in and upon the property being all that comprised in Survey No.73/48, measuring 17.5 cents, situated in Ernavur Village, Tiruvottiyur Taluk, Tiruvallur District.

For Petitioner	: Mr.B.Harikrishnan
For R1 to R4	: Mrs.P.T.Ramadevi Standing Counsel
For R5	: Mr.E.Vijay Anand Addl. Govt. Pleader



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ORDER

WEB COPY (Order of the Court was made by V.LAKSHMINARAYANAN, J.)

This writ petition has been filed for a direction to the respondents to demolish the existing superstructure *viz.*, a Primary Health Centre in survey No.73/48 to an extent of 17.5 cents, situated in Ernavur Village, Tiruvottiyur Taluk, Tiruvallur District.

2. We heard Mr.B.Harikrishnan, learned counsel appearing for the writ petitioner and Mr.E.Vijay Anand, learned Additional Government Pleader and Mrs.P.T.Ramadevi, learned Standing Counsel appearing for the respondents and carefully considered the material records.

3. By an order dated 13.02.2023, this Court had directed the Tahsildar, Tiruvottiyur Taluk to be present and file a status report, as to whether, the ongoing construction is in survey No.73/48, which belongs to the petitioner's predecessor in title *viz.*, Chellammal or elsewhere.

4. The Tahsildar has filed a report on 24.02.2023, stating that the



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construction is taking place in a portion of a land in old survey No.73/1, which correlates to town survey No.78, to an extent of 416 sq.mtrs. The report adds that the revenue records show, in the occupier column as 'Tiruvottiyur Municipality'. The report further reads that the petitioner's grandmother's property is separate and distinct and the construction that is being carried on by the Greater Chennai Corporation, only in the land belonging to the erstwhile Tiruvotriyur Municipality. It is further stated that the petitioner has nothing to do with the said portion of land in town survey No.78. In the light of this categorical report, this Court cannot entertain any further plea from the writ petitioner.

5. The learned counsel Mr.Harikrishnan appearing for the writ petitioner stated that the construction is going on, only in the petitioner's property and the report of the Tahsildar is factually incorrect.

6. This Court cannot go into the “lie” of the property, the extent and the survey number, in a proceeding under Article 226 of the Constitution of India. Liberty is granted to the writ petitioner to approach the jurisdictional



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civil Court and claim reliefs, including that of recovery of possession, if so advised. The *Status Quo* that has been prevailing as on today, shall be maintained till 31.03.2023. It is open to the writ petitioner to approach the jurisdictional civil Court for interim reliefs, including an application under Section 80 C.P.C., also. If no interim order is passed, it is open to the Greater Chennai Corporation, to proceed with the construction.

With the above observation and liberty, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

(V.M.V.,J.) (V.L.N.,J.)
02.03.2023

Index : Yes/No
Neutral Citation : Yes/No
gya

V.M.VELUMANI, J.
AND



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V.LAKSHMINARAYANAN, J.

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