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W.P.No.4966 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.4966 of 2017

S.Prabhakar

..

Petitioner

-VS-

1. The Principal Secretary
Commissioner of Land Administration (FAC)
and Commissioner of Survey and Settlement
Ezhilagam, Chepauk
Chennai 600 005
2. The Additional Director
Land Survey Department
Chepauk, Chennai 600 005
3. The Revenue Divisional Officer
Egmore Revenue Division
Chennai 600 031
4. The Tahsildar
Egmore, Chennai 600 008



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5. Gee Gee Kay Pvt.Ltd.,
rep.by V.Gurumurthy
S/o late Veluchamy Thevar
No.103-A (Old Plot No.E-320)
Nelson Manickam Road
Aminjikarai, Chennai 600 029
6. M/s Rajeswari Chemical Carriers
rep.by its Prop.Mrs.Rajeswari
No.103-B (Old Plot No.E-321)
Nelson Manickam Road
Aminjikarai, Chennai 600 029
(R5 & R6 impleaded as per order of Court
dt.08.11.2017 in WMP No.27062/17 in WP No.4966/17)
7. A.Nagamuthu
(R7 impleaded as per order of Court dt. 04.04.18
in WMP No.33788/17 in WP No.4966/17)
8. The Secretary to Government
Public Works Department
Fort St.George, Chennai 600 009
9. The Executive Engineer
Public Works Department
Buchingham Canal Division
Chennai 600 005
- 10.The Asst. Executive Engineer
Public Works Department Cooum Sub-Division
Chennai 600 005
(R8 to R10 impleaded vide order of Court
dt.25.01.2019 in WMP.No.18004/18
in WP.No.4966/17) .. Respondents



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Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to remove the encroachments in strict obedience to the direction given in G.O.(Ms.)No. 540, Revenue [LD6(2)] Department dated 04.12.2014.

For Petitioner :: Mrs.S.Sasikala

For Respondents :: Mr.J.Ravindran
Additional Advocate General
assisted by
Mr.A.Selvendran
Special Government Pleader
for R1 to R4, R8 to R10
Mr.V.P.Sengottuvel
Senior Counsel for
Ms.K.Indu Priya
for R5 & R6
Mr.N.Raja Vadivelu for R7

ORDER

(Order of the Court was made by the Hon'ble Acting Chief Justice)

Mr.S.Prabhakar has filed this writ petition seeking for issuance of a mandamus directing the respondents to remove the encroachments, in strict obedience to the direction given in G.O.(Ms.)No. 540, Revenue [LD6(2)] Department dated 04.12.2014.

2. Mrs.S.Sasikala, learned counsel appearing for the petitioner



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submitted that when the Government have issued G.O.Ms.No.540, Revenue [LD(2) Department] dated 04.12.2014 for removal of the encroachments on the basis of the order passed by this Court, still there are two encroachments put up in the PWD land violating the Corporation norms. One such building is a chemical factory under the name and style of Gee Gee Kay Pvt. Ltd., for which the lease period got expired and thereafter, when the Government had issued the eviction notice, still the encroachments continue. It is also stated that after issuing the show cause notice for removal of encroachments, the officials are keeping quiet without taking any further steps. Therefore, the petitioner has been advised to file the writ petition.

3. It is at this stage, Mr.V.P.Sengottuvel, learned Senior Counsel appearing for the respondents 5 & 6 submitted that the respondents 5 & 6 have been in permissive occupation and only after getting permission, they are running an office in the place in question. Therefore, it is not open to the petitioner to make an allegation that the respondents 5 & 6 are encroachers.

4. Refuting the said arguments, Mr.J.Ravindran, learned Additional



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Advocate General appearing for the respondents 1 to 4 & 8 to 10 submitted that when the show cause notice was issued calling upon the respondents 5 & 6 to remove the encroachments, till date, for the reasons best known to them, no sign of vacating the encroached portion has been shown, as a result the project initiated by the Government is unnecessarily delayed. Therefore, the petition may be allowed as prayed for and the encroachments made by the respondents 5 & 6 will be removed within a couple of weeks.

5. Having heard the learned counsel appearing for the parties, when the show cause notices have already been issued to the encroachers on the basis of G.O.Ms.No.540, Revenue [LD(2) Department] dated 04.12.2014 and action has also been taken for removal of encroachments in the place in question, the respondents 5 & 6 alone cannot be permitted to continue with their occupation. Therefore, the writ petition stands allowed as prayed for. However, there shall be no order as to costs.

6. Mr.V.P.Sengottuvel, learned Senior Counsel appearing for the



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respondents 5 & 6 sought for some more time to make alternative arrangements. Therefore, subject to filing of an affidavit by the respondents 5 & 6 within a period of two days before this Court, we grant a month's time from today to the respondents 5 & 6 to vacate from the place in question, making it clear that no more further extension of time will be granted.

Speaking/Non speaking order

(T.R.,A.C.J.) (D.B.C.,J.)

Index : yes/no

25.01.2023

SS

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