



WEB COPY



W.P.No.10903 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2023
CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.10903 of 2017
and
W.M.P.Nos.11852 & 11853 of 2017

S.Vennila

...Petitioner

vs

1. The Government of Tamil Nadu,
represented by its Secretary,
Housing and Urban Development Department,
Fort St.George, Chennai - 9.
2. The Member Secretary,
CMDA Thalamuthu Natarajan Maaligai,
No.2, Gandhi Irwin Road, Egmore,
Chennai - 600 008
3. The Commissioner,
Chennai Corporation,
Ripon Building, Chennai - 600 003.
4. The Executive Engineer- Zone IV
5. The Assistant Executive Engineer- Unit 21
6. The Joint Engineer Engineer-Division 94

Respondents 4 to 6 having office at
Enforcement-Region Central,2nd Cross Street (East),
Pulla Avenue,Shenoy Nagar, Chennai.

..Respondents



W.P.No.10903 of 2017

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records in G.O.(3D)No.70 dated 07.04.2017 on the file of the 1st respondent and quash the same as illegal & irregular.

For Petitioner : Mrs.Pavithra
for Mr.V.Srimathi

For Respondents : Mr.Stalin Abimanyu,
Additional Government Pleader for R1
Mr.C.N.Vinobha,
Standing Counsel for R2
Mr.D.B.R.Prabu,
Standing Counsel for R3

ORDER

This writ petition has been filed challenging the order of the 1st respondent dated 07.04.2017 in G.O.(3D) No.70, rejecting the appeal filed by the petitioner under Section 79 and 80(A) of the Tamil Nadu Town and Country Planning Act, 1971.

2. The case of the petitioner is that the land in question originally belonged to one Meghanathan who was allotted the same owing to his membership with Sree Baba Cooperative House Site Society limited. He sold an extent of 1120 square feet of land in favour of the petitioner, vide a registered sale deed. A contractor was employed for developing the



W.P.No.10903 of 2017

WEB COPY

superstructure which was completed in 1998 and possession was handed over to the petitioner. Since the building contractor did not secure necessary planning permission, the petitioner made an application for regularisation in 2001. The appeal was rejected on the ground that the land was earmarked for a public pathway. Against which, the petitioner preferred an appeal under Section 366 of the Chennai City Municipal Corporation Act, 1919. The same was also rejected without going into the merits. In the adjacent locality, an apartment complex was developed and only the petitioner's portion was recognised as a public road. The petitioner applied for patta with the revenue department and patta was issued on 03.06.2009. Thereafter, the respondent called for approved plan on 13.04.2012. Subsequently, locking & sealing and demolition notice was issued when the petitioner's appeal under section 113(A) was pending. On 11.07.2016, the respondents 4 to 6 issued notice under Section 220 r/w Section 222 of the Chennai City Municipal Corporation Act, 1919, claiming that the petitioner had encroached upon the road. Thereafter, de-occupation notice was issued on 02.08.2016 and on 24.09.2016, the petitioner was forcibly evicted from the premises and the premises was also sealed. Challenging the de-occupation notice and locking & sealing notice, the petitioner preferred an appeal under section 80-A on



W.P.No.10903 of 2017

5.10.2016. The said appeal was dismissed. Hence, the present writ petition.

WEB COPY

3. Heard the learned counsel on either side and perused the materials available on record.

4. It is seen that this Court, vide order dated 27.04.2017, directed the petitioner to file an undertaking by way of an affidavit to forthwith remove the unauthorised construction which abuts into public land on which a public road is proposed to be constructed. In pursuant to the order passed by this Court, on 28.04.2017, the petitioner had given an undertaking to demolish the unauthorised construction.

5. Further, from the counter affidavit filed by the first respondent it is seen that the petitioner was afforded personal hearing along with officials of Chennai Metropolitan Development Authority/ Corporation of Chennai on 23.01.2017 and during the personal hearing, the petitioner claimed that she obtained sale deed for Plot No.370-F in Sri Baba Nagar layout developed by Sri Baba Co-operative Housing Society in the year 1997, however, failed to produce the approved plan in respect of Sri Baba Nagar Layout showing Plot



W.P.No.10903 of 2017

WEB COPY

No.370-E. The Corporation of Chennai has stated that in the Patta Land Register, Survey No.236/2A1 part i.e. the site under reference has been mentioned as "booshuthi pathai" and the entire building constructed by the petitioner lies in road portion belonging to Greater Chennai Corporation and Greater Chennai Corporation has also written a letter to Tahsildar to cancel the patta issued in favour of the petitioner to allow Greater Chennai Corporation to lay the road. It is further stated in the counter that the High Court, in its order in W.P.No.27075/2007, rejected the contention of the writ petitioner and directed Greater Chennai Corporation to initiate the process of demolition of the unauthorized construction.

5. Taking note of the above facts, we are not inclined to entertain the present writ petition. Accordingly, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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

07.12.2023

vsi

Index : Yes / No

Internet : Yes / No



W.P.No.10903 of 2017

WEB COPY

To

1. The Government of Tamil Nadu,
represented by its Secretary,
Housing and Urban Development Department,
Fort St.George, Chennai - 9.
2. The Member Secretary,
CMDA Thalamuthu Natarajan Maaligai,
No.2, Gandhi Irwin Road, Egmore,
Chennai - 600 008
3. The Commissioner,
Chennai Corporation,
Ripon Building, Chennai - 600 003.
4. The Executive Engineer- Zone IV,
Enforcement-Region Central,
2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai.
5. The Assistant Executive Engineer- Unit 21
Enforcement-Region Central,
2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai.
6. The Joint Engineer Engineer-Division 94
Enforcement-Region Central,
2nd Cross Street (East), Pulla Avenue,
Shenoy Nagar, Chennai.



WEB COPY



W.P.No.10903 of 2017

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

vsi

W.P.No.10903 of 2017

07.12.2023