



WEB COPY



WP No. 18771 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition No. 18771 of 2017
and
W.M.P. Nos. 26701 & 26708 of 2022

M/s. Southern Housing Corporation Limited
represented by its Director
Mr. R. Marimuthu
S2, Khaleeli Centre, Second Floor
Egmore, Chennai – 600 008

.. Petitioner

Versus

1. The Commissioner
Corporation of Chennai
Ripon Building
Chennai – 600 003
2. The District Collector–cum-District Magistrate
Singaravelar Maaligai, Rajaji Salai
Chennai
3. SRM Institutions
represented by its Chairman
No.3, Veerasamy Street
West Mambalam,
Chennai – 600 033.

4. D. Sivakumar
5. P. Eswari

.. Respondents



WP No. 18771 of 2017

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the first and second respondents to complete the enquiry and to remove the encroachment made by the third respondent in the 60 feet public road running from West to East on the northern side of the petitioner's Plot No.114 in Srinagar Colony, situated at Venkatapuram Village, Saidapet, Chennai – 600 015.

For Petitioner : Mr. T. Saikrishnan
for M/s. Sai Bharath and Ilan

For R1 : Mr. G.T. Subramanian

For R2 : Ms. RL. Karthika
Government Advocate

For R3 : Ms. B. Saraswathi

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

This writ petition has been filed by the petitioner seeking a direction to the first and second respondents to remove the encroachments made by the third respondent by obstructing the 60 feet public road at Srinagar Colony, Saidapet, Chennai.

2. It is stated by the petitioner that they purchased the land bearing Plot No. 114, measuring 7200 square feet in Town Survey No. 92/1, Block No.4, Marithottam, Venkatapuram Village, Saidapet, Chennai by way of a



WP No. 18771 of 2017

registered sale deed dated 27.11.1990. Subsequently, the said Plot No. 114 has been divided into three plots namely Plot Nos. 114-A, 114-B and 114-C each measuring 2400 square feet. It is further stated that as per the approved layout of the plots purchased by the petitioner, there is a 60 feet road on the Northern side of the Plot No.114 and it serves as an access to the petitioner as well as the adjacent plot owners. While so, the third respondent managed to vacate the slum dwellers, who have occupied the lands on the Northern side of Public Road mentioned above and purchased it and started utilising the said land for the purpose of parking the buses owned by them. While doing so, the third respondent attempted to extend the parking area by encroaching upon the 60 feet public road and put up a wall by enclosing it along with their property. The petitioner therefore submitted a representation dated 24.07.2007 to the first respondent and requested to take action to remove the encroachment caused by the third respondent. Since the first respondent did not take any steps for removal of the encroachment, W.P. No. 2400 of 2008 was filed by the petitioner before this Court. By order dated 14.10.2008, the Division Bench of this Court, while dismissing the writ petition, directed the petitioner to approach the District Collector/District Magistrate, second respondent herein, by filing a complaint under Section 133 of the Code of Criminal Procedure (Code).



WP No. 18771 of 2017

3. Pursuant to such direction, the petitioner submitted a complaint dated 12.08.2009 under Section 133 of the Code and prayed for directing the third respondent to remove the encroachment. As the complaint dated 12.08.2009 has not been acted upon, the petitioner once again filed Writ Petition No. 13262 of 2013 before this Court praying to direct the first respondent herein to remove the encroachment. The writ petition was dismissed by this Court on 03.06.2013 on the ground that the complaint dated 12.08.2009 filed by the petitioner under Section 133 of the Code is pending on the file of the second respondent and therefore, no direction could be issued to the first respondent for removal of encroachment. At the same time, this Court directed the second respondent to take the complaint of the petitioner on file and pass orders thereon expeditiously. It is stated by the petitioner that despite the order dated 03.06.2013, the second respondent has not disposed of the complaint filed under Section 133 of Cr.P.C. and therefore, they are now before this Court with this writ petition.

4. When this writ petition is taken up for hearing, the learned counsel for the petitioner submitted that subsequent to the filing of this writ petition, the second respondent has passed an Order in Procs. No.A2/2928/ 2017 dated 06.04.2018 rejecting the complaint preferred by the petitioner under Section



WP No. 18771 of 2017

133 of the Code. Therefore, the learned counsel for the petitioner seeks liberty to challenge the said order dated 06.04.2018 passed by the second respondent before the appropriate authority.

5. In the light of the above, granting such liberty to the petitioner to challenge the order dated 06.04.2018 passed by the second respondent, this Writ Petition is disposed of. No costs. Connected Miscellaneous Petitions are closed.

[R.M.D., J]

[M.S.Q., J]

16.02.2023

Index: Yes / No

Speaking order / Non-speaking order

Neutral Citation: Yes / No

nsd/rsh

To

1. The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai – 600 003.

2. The District Collector – cum -
District Magistrate,
Singaravelar Maaligai,
Rajaji Salai, Chennai.



WEB COPY



WP No. 18771 of 2017

R. MAHADEVAN, J
and
MOHAMMED SHAFFIQ, J

nsd/rsh

WP No. 18771 of 2017

16.02.2023