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W.P.No.8408 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.8408 of 2022
and
W.M.P.No.8360 of 2022

D.Diwakar

....Petitioner

Vs

1. The Commissioner,
Corporation of Greater
Chennai, Ripon Buildings,
Chennai – 600 003.
2. The Assistant Commissioner,
Zone -XV, Corporation of
Chennai, Sholinganallur,
Chennai – 600 119.
3. The Executive Engineer
Zone XV, Corporation of
Chennai, Sholinganallur,
Chennai – 600 119.
4. The Assistant Engineer
Electricity Board,
Injambakkam, South -II,
TNEB, Chennai – 600 115.
5. Pon.Thangavelu
(R5 Impleaded vide order dated 06.02.2023
made in W.M.P.No.10498 of 2022 in W.P.No.8405
of 2022 by AQJ)

....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India,

<https://www.mhc.tn.gov.in/judis>



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pleased to issue a Writ of Mandamus directing the respondents 1 to 3 to pass orders on the letter dated 03.12.2021.

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For Petitioner	: Mrs. Lita Srinivasan
For R1 to R3	: Mr.Rahul Aditya for Mrs. P.T.Ramadevi Senior Standing Counsel
For R4	: Mr.L.Jai Venkatesh

ORDER

This Writ Petition has been filed seeking for a direction to the respondents 1 to 3 to pass orders on the letter dated 03.12.2021.

2. The petitioner claims to have purchased the property in the year 1994 and has been possessing 2180 sq.ft falling in S.No.247 & 249 at Injambakkam Village. The said land has been classified as Tharisu Land and Cart Track. The land in question appears to have been encroached by several other persons. Earlier, an order came to be passed by the respondent Secretary to the Government in G.O.(Ms.).N.252 dated 08.07.2015, which appears to be pursuant to the direction of this Court in W.P.No.8606 of 2015 dated 25.03.2015. By the aforesaid order, the Government had rejected the revision petition filed by one V.Shanmugam and 8 others before the Government under Section 10(A)(1)(c) of Tamil Nadu Land Encroachment Act, 1905 against the order passed by the Additional Chief



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Secretary/Commissioner of Land Administration in respect of the land in question which has been classified as “Cart tract” poramboke. It appears that, the persons who were aggrieved by the said Writ petition have also approached this Court in W.P.No.30404 of 2015. On 25.01.2016, the Division Bench of this Court has clarified as follows:

We further direct that the petitioners are not entitled to part with possession or create any third party interest as also no further construction to be made and would only enjoy the existing premises subject to the requirement of road widening/drainage system etc. in which eventuality, they will have to vacate the area.

3. In the said Writ Petition, 5th respondent herein was also the 5th respondent therein, subsequently, the 5th respondent had filed W.P.No.40317 of 2016 which also came to be disposed by the Hon'ble Division Bench on 17.11.2016 reiterating the order passed in W.P.No.30404 of 2015 dated 25.01.2016, in which para (5,6,7& 8) reads as follows:

5. The petitioner, now relies upon the RTI query raised on 07.07.2016 with response on 28.07.2016 to contend that there is no project in the offing and this Court has been misled. The aforesaid plea is fallacious because the final order in W.P.No.30404 of 2015 passed on 25.01.2016 had already taken note of this fact that at present there is no proposal and if one may say, the endeavour has been to obtain



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an order without bringing to the notice to this Court the final order which settles the controversy in respect of the occupants.

6. The learned counsel for the petitioner still insists that he had not entered appearance in those proceedings. But the fact remains that those proceedings arose as a consequence of the orders passed in the earlier writ petition of the petitioner and that petition was listed for compliance.

7. We, thus, find the writ petition is completely misconceived.

8. The Writ Petition is dismissed. No costs.

4. The case of the petitioner is that, petitioner has been in possession of the property since 1994 and has put up construction and has been paying property tax and also paying the electricity bill. However, at the behest of the 5th respondent, who is an influential person, the electricity connection was disconnected.

5. The learned counsel for the petitioner submitted that, petitioner is aged about 50 years old and he is being made to run from pillar to post and has been denied for shelter and his rights under Article 21 of Constitution has been violated

6. The learned counsel for the respondent would submit that, petitioner was issued with notice dated 12.08.2024, wherein petitioner has been called upon to show cause as to why the encroachment should not be



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removed within 15 days.

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7. The learned counsel for the petitioner on the other hand submitted that the said notice has not been received by the petitioner.

8. The petitioner has only limited right as already observed by this Court on 25.01.2016 in W.P.No.30404 of 2015, order dated 17.11.2016 in W.P.No.40317 of 2016 and in order dated 12.09.2023 in W.P.Nos.5609 of 2018 and 26900 of 2023, wherein petitioner was respondent No.17.

9. Since, the rights of the petitioner being limited, petitioner cannot ask for any special rights from this Court as the issue stands covered against the petitioner. The respondents can initiate proceedings to remove the encroachment only under the circumstances specified in the orders passed by this Court. Since the notice dated 12.08.2024 has been issued to the petitioner, he is directed to give suitable response to the same, upon which the respondent shall take steps for removing the encroachment strictly in accordance with the directions of this Court as indicated in the above mentioned Writ Petitions.

10. Since the petitioner appears to be in the possession of the



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property, pending disposal of the representations, the Electricity Connection shall be restored immediately by the Board and can be disconnected by the Board subject to the actions to be taken by the Corporation. It is also made clear that, removal of encroachment shall be made uniformly.

11. With the above observations and directions, this Writ Petition is disposed of. Consequently, connected miscellaneous petitions are closed.
No costs.

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Index :Yes/No
Neutral Citation : Yes
Speaking order : Yes
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To

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2. The Assistant Commissioner,
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C.SARAVANAN, J
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