



WP.No.22688/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

WP.No.22688/2023

Thajin Beevi

... Petitioner

Vs.

- 1.The Managing Director
Tamil Nadu Urban Habitat Development Board
No.5, Kamarajar Salai, Chepauk,
Chennai 600 005.
[Land Mark: Near Vivekananda House]
- 2.The Estate Officer
Tamil Nadu Urban Habitat Development Board
[Nehru Nagar Phase-I, Velachery]
K.K.Nagar, Sivalingapuram
Chennai 600 078.
- 3.The Chennai Corporation Commissioner
Greater Chennai Corporation
Rippon Building, Chennai 600 003.
- 4.The Regional Deputy Commissioner-South



WP.No.22688/2023

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Greater Chennai Corporation Zone XIII
Brindavan Road, Velachery
Chennai 600 042.

5.The Assistant Engineer
175th Ward, Greater Chennai Corporation
Brindavan Road, Velachery
Chennai 600 042.

6.M/s.Muthu Mahabooth Salima

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of mandamus directing the 1st respondent to dispose of the petitioner's representation dated 30.01.2023 to mark and measure the boundaries of the common pathway to the petitioner's plot No.177 as per the respondent's approved Township Plan and to remove the unauthorised construction made by the 6th respondent schedule herein within the stipuated time period to be fixed by this Court.

For Petitioner : Mr.V.Ramesh Kumar

For RR 1 & 2 : Mr.Babu Muthu Meeran

For RR 3 to 5 : Mr.D.B.R.Prabhu, Standing counsel

For R6 : Mr.G.Vijayakumar



WP.No.22688/2023

WEB COPY

ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

- (1)The present writ petition has been filed seeking for issuance of a writ of mandamus to direct the 1st respondent to dispose of the petitioner's representation dated 30.01.2023 to mark and measure the boundaries of the common pathway to the petitioner's plot No.177 as per the respondent's approved Township Plan and to remove the unauthorised construction made by the 6th respondent herein.
- (2)Brief facts that are necessary for the disposal of this writ petition are as follows:
- (3)The petitioner got allotment of Plot No.177 at Nehru Nagar, Velachery, from the 1st respondent. The adjacent plot owner, namely, the 6th respondent herein, appears to have put up a wall in the common passage and the construction appears to be one to connect the whole building with a dividing wall which was constructed by the 6th respondent in the common passage. As a result, the petitioner who is entitled to use the entire 6 feet passage, is deprived of her right and the pathway which was



WP.No.22688/2023

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with a width of 6 feet, has now been reduced by the offending construction put up by the 6th respondent. It is in the said circumstances, the petitioner appears to have made a representation. Since the representation of the petitioner dated 30.01.2023 has not been considered, the petitioner has approached this Court by filing the present writ petition.

(4)The learned counsel for the respondents 1 and 2 has filed a counter affidavit referring to the encroachment by the 6th respondent to an extent of 23.32 sq.m. in Plot No.177 which is actually allotted to the petitioner herein. The 1st respondent appears to have issued Form-A Notice on 21.11.2023 under the Tamil Nadu Slum Areas Improvement Act, 1971, calling upon the 6th respondent to remove the encroachment.

(5)The learned counsel for the 6th respondent however submitted that a dividing wall was constructed originally pursuant to the internal arrangement with all the neighbouring land owners and that, there is no encroachment by the 6th respondent. However, the learned counsel admits that the construction put up by the 6th respondent has now reduced the width of passage from 6 feet to 2 feet.



WP.No.22688/2023

WEB COPY

(6)The 6th respondent has not produced any document or material to vouch that all the other neighbouring land / plot owners have agreed for such a construction encroaching into the common passage and the area allotted to the petitioner herein.

(7)In such circumstances, this Court is inclined to issue the following directions:-

(a) The 1st respondent is directed to consider and dispose of the petitioner's representation dated 30.01.2023 after making reliable inspection and after hearing the parties. Since the encroachment of the 6th respondent is admitted, the official respondents shall take action in accordance with law and pull down the structure after confirming the exact encroachment or the unauthorised construction by the 6th respondent following due process of law within a period of fourteen weeks from the date of receipt of a copy of this order.

(b) The 1st respondent shall also file a Compliance Report on **15.04.2024**.

(8)The writ petition stands **disposed of**. No costs.

[S.S.S.R., J.] [N.S., J.]
04.01.2024

AP



WP.No.22688/2023

Internet : Yes

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To

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WP.No.22688/2023

S.S. SUNDAR, J.,
and
N.SENTHILKUMAR, J.,

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Wp.No.22688/2023

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