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W.P.No.14356 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.14356 of 2021

V.Subbiah

.. Petitioner

v.

1. The Greater Chennai Corporation
rep.by its Commissioner
Rippon Building
Chennai 600 003
2. The Zonal Officer
Zone-XIII
Greater Chennai Corporation
Lattice Bridge Road, Adyar
Chennai 600 020
3. The Executive Engineer
Zone-XIII
Greater Chennai Corporation
Lattice Bridge Road, Adyar
Chennai 600 020
4. The Asst. Executive Engineer
Division-180, Zone XIII



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Greater Chennai Corporation
Chennai 600 020

5. The Asst. Engineer
Division-180, Zone XIII
Greater Chennai Corporation
Chennai 600 020

6. Mrs.Anusuya
7. Mr.Nithyanandan

8. The Tahsildar
Velacherry, Chennai
(R8 suo motu impleaded vide
order dated 13.07.2021 in
WP.14356/2021)

9. The Tamil Nadu State Marketing
Corporation Ltd. (TASMAC)
rep.by its Managing Director
South Tower
Thalamuthu Natarajan Maaligai
Gandi Irwin Road, Egmore
Chennai 600 008
(R9 impleaded vide order dated
01.08.2023 in WMP.29457/2022
in WP.14356/2021)

10.The Indian Institute of Technology (IIT)
Tharamani, Chennai
(R10 suo motu impleaded vide order
dated 08.11.2023 in WP.14356/2021) .. Respondents

Writ Petition filed under Article 226 of the Constitution of India,



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praying for issuance of a Writ of Mandamus, directing the official respondents herein to take appropriate action on the unauthorised/illegal constructions made by the 6th and 7th respondents in and over the property bearing Door No.52-C, Velacherry-Taramani Link Road, Taramani, Chennai 600 113 under the provisions of the Tamil Nadu Town and Country Planning Act.

For Petitioner :: Mr.S.Thirumavalavan

For Respondents :: Mr.D.B.R.Prabhu
Standing Counsel for R1 to R5
Mr.M.Balasubramanian for R6
R7 – No appearance
Mrs.V.Yamuna Devi
Special Government Pleader for R8
R9 – No appearance
Mr.Karthik Raja for R10

ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

This writ petition is filed for issuance of a mandamus to the respondents to take appropriate action on the unauthorised/illegal constructions made by the 6th and 7th respondents in and over the property bearing Door No.52-C, Velacherry-Taramani Link Road, Taramani, Chennai under the provisions of the Tamil Nadu Town and Country



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Planning Act.

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2. The petitioner states that he purchased two small superstructures bearing Door No.5, Anna Street, Taramani, Chennai. According to the petitioner, the said property is presently bearing Door No.52-C in Taramani-Velacherry link road. It is to be noted that the petitioner claims title on the basis of an unregistered sale deed dated 25.08.1985 and says that he is the owner of the property. It is the case of the petitioner that after formation of the Taramani-Velacherry link road, several properties were acquired by the Government and the front portion of the property of the petitioner was also acquired. It is stated that due to development of the entire area by establishment of IT parks and other institutions, the petitioner's property became valuable and therefore several others, who are neighbours and land grabbers, had an eye on his property. It is the case of the petitioner that taking advantage of his old age and absence for a few days during February, 2020, the respondents 6 & 7 have illegally trespassed over the petitioner's property and demolished the superstructure put up by the petitioner in the said land. It is his further case that a pucca building has been put up by the



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respondents 6 & 7 without any planning permission. Though the petitioner filed a criminal complaint, it appears that no steps have been taken.

Alleging that the private respondents 6 & 7 have put up construction without obtaining any planning permission, the petitioner gave a representation to the local body, namely, the Corporation and has filed the above writ petition for taking action against the private respondents 6 & 7 for the unauthorized and unlawful construction.

3. The fact remains that the petitioner earlier filed a civil suit in O.S.No.8728 of 1994 before the XIII Assistant City Civil Court for declaration of title and for permanent injunction against the husband of the sixth respondent. The said suit was dismissed after contest on 03.02.1998. After the dismissal of the suit, the petitioner preferred an appeal in A.S.No.338 of 2003 before the VII Additional City Civil Court. The appeal also came to be dismissed by the judgment dated 24.09.2004. It appears that the petitioner has filed a second appeal and the same is pending in SR stage. Thereafter, the petitioner has filed the above writ petition.



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4. The sixth respondent has filed a detailed counter affidavit disputing the title of the petitioner and about the civil litigation that went in favour of the sixth respondent. From the facts stated in the counter affidavit filed by the sixth respondent through her power of attorney agent, it is seen that the sixth respondent has applied for planning permission and the property put up by the sixth respondent is also assessed to property tax. The sixth respondent has produced before this Court the planning permission given by the Corporation.

5. Even though this Court is unable to confirm whether the construction put up by the sixth respondent is in accordance with the building plan approval obtained by the sixth respondent, since the sixth respondent is now admittedly in possession of the property, her possession cannot be treated as unlawful by the petitioner. The petitioner has not filed any suit for recovery of possession. In such circumstances, it may be possible for the sixth respondent to apply for regularization even though the construction put up by the sixth respondent is not in accordance with the building plan permission.



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6. Based on the counter affidavit filed by the official respondents, the Tahsildar of Velacherry and the Tamil Nadu State Marketing Corporation Limited (TASMAC) have been impleaded as respondents 8 & 9.

7. The Indian Institute of Technology, Taramani has been impleaded as the tenth respondent. The learned counsel appearing for the tenth respondent submitted that the entire land in which the sixth respondent and several hundreds of people have developed and put up constructions, belong to the Indian Institute of Technology, Taramani.

8. This Court is able to see that several transactions have taken place in the area and the tenth respondent has not taken any effective steps for recovery of possession or resumption of land in which several third parties have put up constructions. Therefore, the tenth respondent may approach the competent authorities concerned for cancellation of patta by producing the documents in their favour. With the liberty preserved to the tenth respondent to pursue their remedy in accordance with law and the petitioner to pursue the second appeal, if any, filed earlier, this writ petition is



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dismissed. Consequently, W.M.P.No.15250 of 2021 is also dismissed. No costs.

Index : yes/no

(S.S.S.R.,J.)

(N.S.,J.)

Neutral citation : yes/no

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SS

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