



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 19.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.16724 & 22815 of 2023
and WMP No.16002 of 2023

P.Narayanan

.. Petitioner
in both W.Ps

Vs.

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

2.The Zonal Officer, Zone-12,
Corporation of Greater Chennai,
Alandur,
Chennai – 600 016.

3.Mr.Umapathi

4.Mr.Raviraja

5.Mr.Baskaran

6.Mr.T.Srinivasan

..Respondents
in W.P.No.16724 of 2023



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

2.The Zonal Officer, Zone-12,
Corporation of Greater Chennai,
Alandur,
Chennai – 600 016.

3..Mr.T.Srinivasan

..Respondents
in W.P.No.22815 of 2023

PRAYER in W.P.No.16724 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Mandamus, directing the 1st respondent to cancel the planning permission issued by the 2nd respondent favour of the 6th respondent for construction in S.No.184/17 (Paimash No.6) situated at No.181, Mastan Gory Street, No.107, Adhambakkam Village, Saidapet Taluk, Chengalpattu District now Kancheepuram District, Chennai-600 088 on the basis of the petitioner's representation dated 24.05.2023.

PRAYER in W.P.No.22815 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Mandamus, directing the 2nd respondent to furnish the copy of the planning permission granted in favour of the 3rd respondent on the basis of the petitioner's representation dated 22.05.2023.



For Petitioner

: Mr.B.Kumar
Senior Counsel for
Mr.M.Gnanasekar
in both W.Ps

For Respondents

: Mr.E.C.Ramesh
Standing Counsel for R1 and R2
in W.P.No.22815 of 2023

Mr.D.B.R.Prabhu
Standing Counsel for R1 to R4
in W.P.No.16724 of 2023

Mr.T.N.Rajagopalan
for R3 in W.P.No.22815 of 2023 &
for R6 in W.P.No.16724 of 2023

COMMON ORDER

W.P.No.16724 of 2023 has been filed for a direction to the Commissioner of Corporation of Greater Chennai to cancel the planning permit issued in favour of the 6th respondent for putting up a construction in the subject property, based on the representation dated 24.05.2023 made by the petitioner.

2.W.P.No.22815 of 2023 has been filed for a direction to the Zonal Officer, Corporation of Greater Chennai to furnish the copy of the planning permission



granted in favour of the 3rd respondent (6th respondent in W.P.No.16724 of 2023)

based on the representation dated 22.05.2023.

3.The above writ petitions were filed mainly on the ground that the planning permission was granted by the Corporation of Chennai in a portion of the property over which the petitioner has an easementary right for using it as a passage as well as a right to usage of well. A suit has already been filed in this regard by the petitioner in O.S.No.103 of 2017 and during the pendency of the suit, the private respondent has applied for planning permission and the planning permission has also been issued by the Corporation of Chennai.

4.When the matter came up for hearing on 07.06.2023, this Court passed the following order:

Mr.D.B.R.Prabhu, learned Standing Counsel, takes notice on behalf of respondents 1 to 4.

2. Mrs.S.Mythreye Chandru, learned Special Government Pleader, takes notice on behalf of fifth respondent.

3. Notice to the sixth respondent returnable by 28.06.2023. Private notice is also permitted.



4. *The main grievance that has been expressed by learned Senior Counsel appearing on behalf of the petitioner is that the petitioner has already filed a suit in O.S.No.103 of 2017 against the sixth respondent and an order of interim injunction has also been passed in favour of the petitioner. The dispute pertains to the property situated in Survey No.184 of 2017 at Adambakkam village, Saidapet Taluk, Chengalpattu District. It was contended by the learned Senior Counsel that the sixth respondent had submitted an application before the second respondent and has obtained planning permission for construction in the plot that was purchased by him in the year 1988 by suppressing the existence of a common Well and its common usage as per the right that was given by the parent document dated 30.05.1986. Hence, the petitioner has made a representation to the first respondent to cancel the planning permission granted by the second respondent in favour of the sixth respondent. The said representation is pending and in the mean time, the sixth respondent is attempting to put up construction taking advantage of the approval granted in his favour. Applying the principles of prima facie case, balance of convenience and the irreparable loss and hardship that may be suffered by the petitioner, this Court is inclined to grant interim injunction.*

5. *Accordingly, there shall be an order of interim injunction as prayed for till 28.06.2023.*



Post on 28.06.2023.

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5. The 3rd respondent (6th respondent in W.P.No.16724 of 2023) has filed a counter affidavit and has taken a stand that no interim injunction order was granted in favour of the petitioner and the petitioner has misled this Court and obtained an order of interim injunction. The learned counsel further submitted that all the interlocutory applications have been closed in the suit and it is the petitioner who is dragging on the case from the year 2017 by filing one petition after another. A further stand has been taken to the effect that the existing building is in a dilapidated condition and therefore, the private respondent wanted to demolish the same and construct a new residential building. For this purpose, he had applied for planning permission and it was also granted through proceedings dated 19.01.2023. That apart, the petitioner had also filed O.S.No.154 of 2023 before the learned Additional District Munsif, Alandur and sought for the relief of permanent injunction restraining the private respondent from altering the physical feature of the suit property and also for mandatory injunction directing the Corporation to cancel the planning approval granted in favour of the private respondent. The filing of this suit has been concealed by the petitioner while filing these writ petitions. In view of the same, the private respondent has sought for the dismissal of these writ



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6.The Executive Engineer has filed a status report. He has stated that the planning permission was granted only after scrutinising all the relevant documents and the building approval was granted to the private respondent for constructing a residential building consisting of a stilt and two floors. The Executive Engineer has also taken a stand that if at all the planning permission has to be cancelled, such a decision can be taken only after the outcome of the civil suit.

7.Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents.

8.In the considered view of this Court, the petitioner and the private respondent are fighting a dispute which is purely civil in nature. The petitioner has already filed a suit in this regard. The petitioner unfortunately mislead this Court as if an order of injunction was granted in his favour and in spite of the same, the planning permission was granted in favour of the 6th respondent. However, it now comes to light that no interim injunction order was granted in favour of the



petitioner.

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9.The petitioner has been dragging on with the suit from the year 2017 onwards. Till the petitioner establishes his right, there is no question of restraining the authorities from exercising their statutory function. That apart, the petitioner has conveniently concealed the filing of yet another suit in O.S.No.154 of 2023 where again the very same planning permission has been put to challenge. The petitioner who was not able to get any interim order before the Civil Court, has filed these writ petitions only for the sake for getting an interim order when the main issue regarding his right of passage and usage of well is yet to be decided by the Civil Court.

10.This Court is not convinced with the attitude of the petitioner who has approached this Court with unclean hands by giving wrong details and concealing material facts. That apart, this Court also does not find any merits in these writ petitions.



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11. In the result, both the writ petitions stands dismissed. No Costs.

Consequently, connected miscellaneous petition is closed.

19.07.2024
(1/2)

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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To

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2. The Zonal Officer, Zone-12,
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N.ANAND VENKATESH, J

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