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W.P.Nos.20828 and 20831 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2024

CORAM:

THE HON'BLE MR.D.KRISHNAKUMAR
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.P.Nos.20828 and 20831 of 2024 and
W.M.P.Nos.22779, 22780, 22786 and 22787 of 2024

W.P.Nos.20828 and 20831 of 2024

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|-------------------------|-------------------------------------|
| 1. S.Natarajan | ... Petitioner in W.P.No.20828/2024 |
| 2. S.Ramaraj @ Ramasamy | ... Petitioner in W.P.No.20831/2024 |

-VS-

- | | |
|---|-----------------------------------|
| 1. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai-600 003. | |
| 2. The Superintending Engineer (South),
Regional Office South,
Greater Chennai Corporation,
No.31, Thiruvengadam Street,
Baktavatsalam Nagar,
Chennai-600 020. | |
| 3. The Zonal Officer,
Zone-XII,
Greater Chennai Corporation,
SIDCO, Guindy,
Chennai-600 035. | ... Respondents in both petitions |



W.P.Nos.20828 and 20829 of 2024

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned order in Z.O.XII.C.No.R3/1021/2024 dated 09.07.2024 on the file of the third respondent herein and to quash the same.

For Petitioners : Mr.K.K.N.Ganeshan

For Respondents : Mr.J.Ravindran
Addl. Advocate General
Assisted by Ms.Aswini Devi
Standing Counsel

COMMON ORDER

(By the Hon'ble Acting Chief Justice)

These Writ Petitions have been filed, challenging the order dated 09.07.2024 passed by the 3rd respondent herein in Z.O.XII.C.No.R3/1021/2024, vide which, action has been initiated for eviction of the petitioners from the encroached area.

2. Learned counsel for the petitioners submitted that the petitioners are in possession and enjoyment of the property in question in S.No.232/6, bearing D.No.2/246, Near Jamia Masjid, M.G.Road, Manapakkam, Chennai, which is duly classified as Patta Land, belonging to the absolute ownership of the petitioners. He further submitted that the respondents attempt to evict the petitioners from the subject property on the wrong notion that they had encroached upon the land.



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3. Mr.J.Ravindran, learned Additional Advocate General contended that the respondents are taking steps to evict encroachers from the property situated in S.No.231 alone, which is classified as Kuttai Promboke and they are not concerned with the property located at S.No.232. He further contended that those, who are in encroachment of the property in S.No.231, action had already been initiated as per law for evicting them from the water body. He pointed out that out of nine houses, eight houses had already been removed and one house is yet to be demolished.

4. In reply to the contention, learned counsel for the petitioners stated that the petitioners are in occupation of the property in S.No.232 and not in S.No.231. The respondents, without giving any notice, proceeded to demolish their property on the wrong assumption that they are encroachers. Learned counsel for the petitioners, on instructions, undertakes that in case of any encroachment made by the petitioners in S.No.231, they will abide by the action being taken by the respondents and according to him, the house of the petitioners has not been removed so far.

5. In view of the contra statements made by the parties and in order to give quietus to the issue on hand, we are inclined to pass the following orders:



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i) The respondents are directed to measure the entire property situated in S.No.231 with the assistance of a Surveyor on or before 09.08.2024 in the presence of the petitioners and thereafter, proceed in accordance with law for removal of the encroachment in respect of S.No.231.

ii) Till a final decision is taken by the respondents after conducting survey, there shall be an order of Status Quo to be maintained as on date.

iii) In case the petitioners are found to have encroached the property in S.No.231, there is no impediment for the respondents to evict them from S.No.231 without any further notice, as they undertook that they are ready to hand over the possession to the respondents, if any encroachment is noticed on the water body.

With the above observations and directions, these Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,ACJ.]

[P.B.B.,J.]

06.08.2024

Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order

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W.P.Nos.20828 and 20829 of 2017

To:

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