



WP No.26831 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.26831 of 2019
and WMP No.29806 of 2019

Ashok Kotari

.. Petitioner

-VS-

1. The Commissioner,
Corporation of Chennai,
Ripon Building, 1st Floor,
Sydenhams Rd., Kannappar Thidal,
Chennai 600 003.
2. Zonal Officer,
Zone-5, Division-58,
Corporation of Chennai,
No.61, Basin Bridge,
Chennai 600 021.
3. District Revenue Officer,
Land & Estate Department,
Greater Chennai Corporation,
Ripon Building Campus,
Chennai 600 003.



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4. Assistant Executive Engineer,
Land & Estate Department,
Greater Chennai Corporation,
Ripon Building Campus,
Chennai 600 003.

5. The Tahsildar,
Perambur and Purasawalkam Taluk,
Perambur High Road, Opp. To Perambur
Railway Station, Chennai 600 011.

6. Daulathmal Chordia

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to evict the encroachment by demolishing the unauthorised illegal construction build on the Corporation land, measuring to an extent of 660 sq. ft., in R.S.No.885/1, 885/22, 885/23 in Plot/Block No.16 of the Purasaiwalkam Village.

For the Petitioner : Mr.J.V.Sakthi Baalakrishnan

For the Respondents : Mr.R.Raman Lal
Addl. Advocate General
assisted by Mr.DBR.Prabhu
for RR 1 to 4
: Mr.A.Edwin Prabakar,
State Government Pleader,
Assisted by Mr.K.Karthik Jagannath
Govt. Advocate for R-5
: M/s.Kanimozhi Mathi for R-6

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ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.J.V.Sakthi Baalakrishnan, learned counsel for the petitioner, Mr.R.Raman Lal, learned Additional Advocate General assisted by Mr.DBR.Prabhu, learned counsel, for respondent Nos.1 to 4, Mr.A.Edwin Prabakar, learned State Government Pleader, assisted by Mr.K.Karthik Jagannath, learned Government Advocate, for respondent No.5 and M/s.Kanimozhi Mathi, learned counsel for respondent No.6.

2. The prayer in the writ petition is to demolish the unauthorised illegal construction built on the Corporation land by respondent No.6 to an extent of 660 sq.ft. in S.Nos.885/1, 885/22 and 885/23 in Block No.16 of Purasaiwalkam Village.

3. The learned counsel for the petitioner submits that the subject land in question is a corporation land. Even in an earlier writ petition filed by respondent No.6 bearing W.P.No.20317 of 2011, this Court under order dated 04.12.2014 observed that there is a dispute with



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regard to the title and respondent No.6 herein has to approach the Civil Court to prove his title. According to the learned counsel, an affidavit was also filed by the Corporation in the said writ petition that the property is owned by the Corporation and a request was made to the Tahsildar to cancel the patta, however, no cognizance is taken by the Tahsildar in respect of the same.

4. The learned counsel for respondent No.6 submits that the land in question is a private land of respondent No.6. The respondent No.6 owns and possesses the land and valid patta is issued in favour of respondent No.6. The respondent No.6 has filed a civil suit in O.S.No.6057 of 2009 before the City Civil Court at Chennai against the present petitioner and the Flat Owners' Association. The suit for declaration of ownership and injunction is decreed in favour of respondent No.6. The learned counsel further submits that it is not a public interest litigation, but the petitioner has a personal grievance against respondent No.6.

5. The learned State Government Pleader, on instructions, submits that the survey numbers in question are private patta lands.



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6. We have considered the submissions. The issue with regard to the title cannot be decided in the writ jurisdiction under Article 226 of the Constitution.

7. No doubt, the Corporation is not a party in O.S.No.6057 of 2009 filed by the present respondent No.6. The judgment of the Civil Court would operate inter-se between the parties to the suit.

8. The patta today stands in the name of respondent No.6. The provisions of the Tamil Nadu Land Encroachment Act, 1905 cannot be applied in respect of private patta land. It is only if the patta is cancelled, then the said provisions can be applied and that too in respect of the Government land. In case it is the Corporation land, then the Corporation has to take appropriate steps in the matter.

9. In view of the disputed questions of facts involved in the matter with regard to the title, no positive orders can be passed. The statutory powers vest with the Corporation under the provisions of the Tamil Nadu Urban Local Bodies Act, 1998. It is for the Corporation to



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take proceedings in accordance with the said Act in respect of any unauthorised construction.

With the aforesaid observations, the writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No

Neutral Citation : Yes/No

sra

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