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WP.No.28786/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

WP.No.28786/2023

K.Soundarajan

... Petitioner

Vs.

1.The Director

Directorate of Town & Planning
head Office at No.807,
Anna Salai Chennai 600 002.

2.The Commissioner

Directorate of Town and Country Planning
Head Office No.807, Anna Salai
Chennai 600 002.

3.The Secretary

Municipal Administration & Water Supply
Department, Government of Tamil Nadu
Namakkal Kavignar Maaligai
Fort St George, Chennai 600 009.



WP.No.28786/2023

4.The Commissioner

Greater Chennai Corporation,
Rippon Building, Chennai 600 003.

5.The Member Secretary

Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore, Chennai 600 009.

6.The District Collector, Chennai

O/o.The District Collector
Singaravelar Maaligai
2nd Line Beach, Chennai 600 001.

7.The Tahsildhar

Egmore Nungambakkam Taluk
Office of the Tahsildhar
Chennai 600 031.

8.The Revenue Divisional Officer

Chennai Central, Gandhi Nagar
Anna Nagar West Extension
Chennai 600 040.

9.M/s.Dwaraka Doss Goverdhan Doss

Vaishnav College, Dewan Bahadur
M.O.Parthasarathy Iyengar's Charities
No.20, 4th Lane, Thousand Lights West
Thousand Lights, Chennai 600 034.

... Respondents



WP.No.28786/2023

WEB COPY

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of mandamus, directing the respondents 1 to 8 to take appropriate action against the 9th respondent and demolish the unauthorised construction put up by the 9th respondent in Survey No.51/2, Block No.10, Nungambakkam Village, Egmore Circle, Chennai based on the letter issued by the 5th respondent bearing No.G.PIO/13993/2022 dated 12.01.2022.

For Petitioner	: Mr.L.Sivakumar
For RR1 to 3, 6 to 8	: Mrs.V.Yamuna Devi, Spl.GP
For R4	: Mr.D.B.R.Prabhu, Standing counsel
For R5	: Mr.Thamaraiselvan
For R9	: Mr.K.Shakespeare

ORDER

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

- (1) This vexatious litigation is filed by the grandson of Late Thiru.S.Varaguna Rama Pandia Chinnathambiar, who is stated to be the last Zamindar of Sivagiri Zamin.
- (2) The petitioner who claims to be the grandson of the last Zamindar of Sivagiri Zamin, states that the property situate in 51/2, Block No.10



WP.No.28786/2023

WEB COPY

Nungambakkam-Egmore Circle, Chennai, belongs to the legal heirs of Sivagiri Zamin. He states that the revenue records also stand in the name of the legal heirs of Sivagiri Zamin. It is the grievance of the petitioner that the 9th respondent without any title or right over the property, had constructed a College in the name of M.O.P.Vaishnav College for Women in the said land which belongs to the petitioner's family.

(3)Earlier, the petitioner filed a writ petition in WP.No.21438/2021 seeking a direction for demolition of the unauthorised construction put up by the 9th respondent herein who is the 6th respondent therein. This Court, by order dated 03.02.2022, passed the following order:-

"7.In the light of the submission of the learned counsel, this Court without going into the merits of the matter, directs the 5th respondent to pass orders on the revised application filed by the 6th respondent on 27.04.1999 in accordance with law, after affording an opportunity of personal hearing to the 6th respondent."

(4)Thereafter, the 9th respondent appears to have filed another application in terms of Section 113-C of the Chennai City Municipal Corporation Act,



WP.No.28786/2023

WEB COPY

for regularization of the building under the subsequent scheme which was introduced in the year 2012, covering construction upto the year 2007.

The petitioner appears to have participated in the proceedings relating to the regularization application submitted by the 9th respondent. However, without disclosing the fact that the regularization application submitted by the 9th respondent before the Local Body is pending, the petitioner has come forward with the present writ petition with a prayer which is akin to the prayer in the earlier writ petition filed by him in WP.No.21438/2021.

(5) On a closer scrutiny, the petitioner is a person who claims title to the property. He filed a civil suit in OS.No.11864/2010 on the file of the learned V Additional Judge, City Civil Court, Chennai, against the 9th respondent herein challenging the sale that was made by the official Referee of this Court. It is further stated that the said suit was dismissed by a judgment and decree dated 30.09.2022 by the learned Judge. However, it is admitted that an appeal filed by the petitioner herein is pending before this Court. It is in the said circumstances, the petitioner has come forward with the writ petitions one after another knowing that the application filed by the 9th respondent for regularization is pending



WP.No.28786/2023

before the competent authority. This Court is not inclined to entertain this Writ Petition filed by the petitioner.

(6) However, till such time the regularization application is considered on merits and disposed of by the 5th respondent, the question whether the building is unauthorised and liable to be demolished cannot be decided when we consider the issue on equitable principles.

(7) This Court finds that the petitioner is a person having rival claim, raising serious dispute questioning the title of the 9th respondent. Even though he has pointed out before this Court, certain unauthorised constructions said to have been put up by the 9th respondent, the objection to the construction is on the basis of title dispute over the subject property. The official respondents are not competent to decide the question of title. Hence, the 5th respondent is directed to dispose of the application filed by the 9th respondent for regularization of the construction. After the disposal of the application for regularization either filed pursuant to 1999 scheme or subsequent amendment which can be availed by making application in terms of Section 113-C of the Chennai City Municipal Corporation Act, depends upon the outcome of regularization the 5th



WP.No.28786/2023

WEB COPY

respondent may take appropriate action if required against the 9th respondent herein. The petitioner is given liberty to prosecute his appeal.

(8) This writ petition stands **dismissed subject to the above observations and directions issued.** No costs.

[S.S.S.R., J.] [N.S., J.]
06.02.2024

AP
Internet : Yes
Neutral Citation: Yes / No



WP.No.28786/2023

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