



W.P.No.2723 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.2723 of 2024

C.Arul

... Petitioner

Vs.

1.The District Collector,
Singaravelar Maligai,
Chennai.

2.The Government of Tamil Nadu,
Represented by its Secretary,
Municipal Administration and Water Supply Department,
Secretariat,
Chennai.

3.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajar Maligai,
Gandhi Irwin Road,
Chennai – 600 008.



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4. The Commissioner,
Chennai Corporation,
Zonal Office XIV,
Puzhuthivakkam Greater Main Road, Perungudi,
Chennai – 600 091.

5. The Assistant Executive Engineer,
Chennai Corporation,
Zonal Office XIV,
Puzhithivakkam Greater Main Road,
Perungudi,
Chennai – 600 091.

6. The Tahsildar,
Sholinganallur Taluk Office,
Sholinganallur,
Chennai – 600 119.

7. Thara

8. Dakshinamoorthy

9. Kalaivani

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing respondents 1 to 6 to demolish the unauthorised illegal construction of building and compound wall erected in the petitioner's patta land by respondents 7 to 9.



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For Petitioner	:	M/s.T.K.S.Bharathy Shri
For R1, R2 and R6	:	Mr.M.R.Gokul Krishnan Additional Government Pleader
For R3	:	Mr.Y.Bhuvanesh Kumar Standing Counsel
For R4 and R5	:	Mr.D.B.R.Prabhu Standing Counsel
For R7 and R8	:	Mr.N.Ganesh Murthy
R9	:	Tapal returned (No such person)

ORDER

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

This writ petition is filed for issuance of a Writ of Mandamus directing the respondents 1 to 6 to demolish the illegal and unauthorised construction put up by the respondents 7 to 9 in the property of the petitioner.

2.The case of the petitioner is that the petitioner purchased a land in



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Pallaikaranai Village, Kancheepuram District, under sale deed dated 09.10.1997 to an extent of 1200 sq.ft. in S.No.722/1B. The petitioner applied for patta and it was at that time, it was revealed that the property was covered under the proceedings initiated under Tamil Nadu Urban Land Ceiling and Regulation Act 20 of 1999. The petitioner filed an application to regularise his purchase under innocent purchaser category before the authorities. The petitioner also approached this Court in W.P.No.10549 of 2020 to regularise his purchase in terms of G.O.Ms.Nos.649 and 565 of Revenue Department. It is stated that an order was passed in the year 2021 directing the 2nd respondent in the writ petition, namely, the Special Commissioner, Urban Land Ceiling and Urban Land Tax, to pass orders regularising the purchase of the site by the petitioner within a period of four weeks. Thereafter, the order of this Court in the writ petition was also complied with by proceedings dated 17.12.2021. Patta was also given to the petitioner after survey and report. In respect of the land to which patta was given, was earmarked.

3.However, at the time of survey, it was noticed that the private



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respondents are in encroachment of the rear portion by constructing a building probably taking advantage of petition pending for grant of patta.

Therefore, the petitioner submitted representations to the respondents for taking action against the private respondents who have no semblance of right all along. Specific allegations are made against the father of 7th respondent who has encroached several lands which were subject matter of Urban Land Ceiling proceedings. It appears that the 7th respondent erected a compound wall in the land in respect of which patta was given to the petitioner. With these allegations, the petitioner has made representations and the respondents, though have issued notice for removal of unauthorised construction, have not proceeded further. In the said circumstances, the petitioner has approached this Court with a prayer to demolish the unauthorised and illegal construction put up by the respondents 7 to 9.

4.A counter affidavit is filed by the Member Secretary, Chennai Metropolitan Development Authority, *inter alia* pointing out that the construction put up by the respondents 7 to 9 is without any planning permission obtained from the official respondents. Learned counsel



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appearing for CMDA also produced before this Court a communication dated 02.04.2024 addressed to the respondents 4 and 5, based on the earlier writ petition filed by the petitioner, requesting for action to be taken against the individuals who have indulged in unauthorised and illegal construction in S.No.722/1B in Pallikaranai Village, within the Corporation limits.

5.A counter affidavit is also filed by the respondents 7 and 8. In the counter affidavit, the respondents 7 and 8 have stated that the father of the 7th respondent is in possession of the property for about 25 years and that he has also paid Property Tax to Chennai Corporation vide Property Tax Card No.14-189-00535-000. It is the case of the respondents 7 and 8 that the petitioner is trying to grab the property after the death of the father of the 7th respondent on 06.12.2022. Further, it is contended that the 7th respondent's father Elumalai had filed a suit for permanent injunction against the petitioner on the file of District Munsif Court, Alandur, and that therefore, it is contended that the petitioner has approached this Court with unclean hands suppressing the Civil Suit which is already pending.



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6.The private respondents have not given the particulars of the suit stated to have been filed by the 7th respondent's father. This Court, from the materials, is able to find a *prima facie* case in favour of the petitioner as regards title. The private respondents have not produced even a single document or material to suggest that their possession is lawful or that they have put up construction on the basis of any title deed or right to be in possession. It appears that the private respondents are ranked trespassers who have taken advantage of the proceedings at the instance of the respondents under Urban Land Ceiling Act. The petitioner could not get patta, despite sale deed in their favour, in view of Urban Land Ceiling proceedings. As against Government, the private respondents have not claimed title. By virtue of patta, the lands held by Government under Urban Land Ceiling proceedings have now been vested with the petitioner.

7.It is not in dispute that the respondents 7 to 9 have not applied for planning permission or building plan approval from the competent



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authorities. In the said circumstances, this Court is unable to find any merit

in the contentions of the private respondents. Even though in the matter like this, where disputed questions of fact are involved, this Court would normally relegate the matter to the Civil Court for appropriate relief, the conduct of the private respondents herein in entering into possession, putting up construction without planning permission and title, cannot be permitted. The right of innocent owners, who are away from the place and who are unable to prevent encroachment in view of pendency of proceedings, are not saved in the hands of land grabbers who grab valuable properties in and around the city and try to claim title on the basis of illegal construction. When there is no semblance of document to show that the property was in enjoyment of the private respondents and there are documents to suggest that the property is vacant on ground before construction, this Court finds that the unauthorised construction cannot confer any right in favour of the person who constructed the building without semblance of right. In the circumstances, the dispute at the instance of a land grabber without any material to support his claim cannot be recognized to give a legal status or to consider the claim as *bona fide*. The



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private respondents have not given any documents or material to show their possession. A bare suit for injunction, where title is in dispute, without impleading the Government, is not maintainable.

8.In the said circumstances, this Court is of the view that the unauthorised construction cannot be sustained and therefore, the official respondents 1 to 6 are directed to proceed against the respondents 7 to 9 for removal of unauthorised construction, after following due process of law. The entire exercise shall be completed within a period of 16 weeks from the date of receipt of a copy of this order. Till such time action is taken and the unlawful construction is removed, the respondents 7 to 9 shall not proceed with any further construction.

9.With these directions, this writ petition is disposed of. No costs.

(S.S.S.R., J.) (N.S., J.)
12.07.2024

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Internet : Yes

Index : Yes / No



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Neutral Citation : Yes / No

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