



WEB COPY



W.P.No.33339 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.33339 of 2023

A.Mariyal .. Petitioner

v.

1. The Secretary
Tamil Nadu Urban Development Department
Secretariat, St.George Fort
Chennai 600 009
2. The Member Secretary
Chennai Metropolitan Development Authority
CMDA, Egmore
Chennai 600 008
3. The Commissioner
Greater Chennai Corporation
Rippon Building
Chennai 600 003
4. The Assistant Commissioner
Greater Chennai Corporation
Zone-4, Tondiarpet
Chennai 600 081



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5. The Executive Engineer
Tondiarpet, TANGEDCO
Chennai 600 021

6. The Zonal Officer
Greater Chennai Corporation
Zone-4, Tiruvottiyur Main Road
Chennai 600 021

7. Mrs.R.Dhavamani .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing respondents 1 to 6 to take appropriate action on the unauthorized construction of the subject building of the 7th respondent based on the representation of the petitioner dated 24.04.2023.

For Petitioner	::	Mr.D.Ashok Kumar
For Respondents	::	Mrs.V.Yamuna Devi Special Government Pleader for R1 Mr.D.B.R.Prabhu Standing Counsel for R3, R4 & R6 R2 & R5 - No appearance Mr.K.A.Ravindran for R7

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

This writ petition is filed for issuance of a mandamus directing the



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respondents 1 to 6 to take appropriate action on the unauthorized construction of the subject building by the 7th respondent, based on the representation of the petitioner dated 24.04.2023.

2. The petitioner appears to be a co-owner claiming undivided share in the property, which originally belonged to the Tamil Nadu Slum Clearance Board, on assignment in favour of the petitioner's father. The petitioner admits the fact that her father died leaving behind the petitioner as well her brother and sister. Stating that her brother had sold her undivided interest in favour of the seventh respondent, the petitioner in her representation dated 24.04.2023 requested the Slum Clearance Board for transfer of the land by a sale deed or by necessary document, as she is prepared to pay the fees for the same. She also requested not to transfer the ownership in favour of anyone without her knowledge. Having submitted a representation regarding mutation of names in the records, the petitioner has filed the present writ petition for the relief as mentioned above.

3. The seventh respondent has come forward with a story that she has



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bought the superstructure by acquiring the right from two of the legal heirs of one Mr.Vedamanickam, who is the father of the writ petitioner.

4. Since the seventh respondent has put up the superstructure without any title over the land, the learned counsel for the petitioner states that the construction is unauthorised.

5. The nature of submission shows that the seventh respondent, who admits that she acquired some right from the two owners of Mr.Vedamanickam, wants to deprive the other sharer of the said Mr.Vedamanickam to have any right over the property. In such circumstances, this Court finds that the seventh respondent asserts title over the building and justifies her unlawful encroachment. Since the seventh respondent herself admits that there was no valid conveyance or title in respect of land in favour of the predecessor in interest of the petitioner, the construction is unauthorized. Therefore, the respondents 3, 4 & 6 are directed to initiate proceedings for removal of unauthorised construction after following due process of law, within a period of four weeks from the



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date of receipt of a copy of this order. It is also open to the petitioner to file a civil suit for appropriate relief by establishing her civil right over the property.

6. With the above direction, the writ petition stands disposed of. No costs.

Index : yes/no

(S.S.S.R.,J.)

(N.S.,J.)

Neutral citation : yes/no

05.02.2024

ss

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