



WP.No. 36071 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

And

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No. 36071 of 2023

and

WMP.Nos. 36034 & 36035 of 2023

H. Chitra

...Petitioner

Versus

1. The Additional Secretary (Technical)
Housing and Urban Development Department
Secretariat, Chennai - 9.

2. The Secretary to Government
Housing and Urban Development Department
Government of Tamil Nadu
Secretariat, Chennai - 9.

3. The Commissioner
Corporation of Greater Chennai,



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Rippon Building
Chennai - 600 003.

4. The Executive Engineer, Zone-15

Greater Chennai Corporation

No. 120, Rajiv Gandhi Salai (Old Mahabalipuram Road)

Sholinganallur, Chennai - 600 119.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the 1st respondent in respect of the impugned order vide Letter No. 5075116/UD-VII(2)/2023-5, dated 12.12.2023 and quash the same as illegal and arbitrary and consequently forbear the 3rd and 4th respondents or anybody on their behalf from initiating any coercive action with regard to property situated at No. 1/318, Thanthai Periyar Street, Injuambakkam Village, Sholinganallur Taluk, Chennai District, comprised in Gramanatham Patta No. 407, Old Survey No. 326/17, measuring to an extent of 194 sq.mt., i.e., 2088 sqft till the disposal of the writ petition.

For Petitioner : Ms.RA.Parkavi

For RR 1 & 2 : Mr.M. Muthusamy
Government Advocate

For RR 3 & 4 : Mr.D.B.R. Prabhu

ORDER



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This writ petition is filed for issuance of Writ of Certiorarified Mandamus, to quash the impugned order passed by the first respondent dated 12.12.2023 and to forbear the respondents 3 and 4 to initiate any coercive action with regard to the property situated at No. 1/318, Thanthai Periyar Street, Injuambakkam Village, Sholinganallur Taluk, comprised in Old Survey No. 326/17, measuring to an extent of 194 sq.mt. i.e. 2088 sq.ft.

2. The case of the petitioner is that she has put up construction in Old Survey No. 326/17 measuring an extent of 194 sq.mt. i.e. 2088 sq.ft. It is the case of the petitioner that the construction is put up in her property classified as Grama Natham [house site] at Injambakkam Village. The petitioner has also derived her title over the property through her husband, by name, Thiru.S.Haridoss claiming that the property is the ancestral property of her husband. The petitioner has admitted that she has put up construction without applying for permission. It is found that the petitioner



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has not only put up a construction in her property in Survey No. 326/17, but also the adjoining land covering substantial portion classified as 'water body'. The petitioner has not even applied for planning permission and has encroached upon the water body measuring an extent of 681 sq.mtr. and certain other portions which is also a public property comprised in S.No.326/19 without disclosing the particulars about the whole construction put up by her. Even in respect of the land classified as Natham, it is stated that the petitioner is not entitled to the whole extent, as the petitioner's title for an extent 194 sq.mt., alone is admitted. The fact that the petitioner has encroached neighbouring land that does not belong to her is not in dispute. The petitioner has encroached, the land in Survey No. 87. The land, in which, the petitioner had put up construction is partly classified as Grama Natham and declared as continuous building area and lies in Aquifer Recharge area restricted to development Zone as per Second Master Plan for Chennai Metropolitan Development Area. Substantial



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portion of construction falls within water body and public property as seen from the impugned order.

3. The records reveals that the construction put up in Survey No.87, Injambakkam Village, is unauthorized and therefore, the first respondent is right in passing the impugned proceedings confirming the order passed by the 4th respondent dated 08.06.2023 by which, the petitioner was called upon to restore the land to its original condition within 30 days, failing which, the petitioner was informed that action will be taken to lock and seal the premises and to demolish to restore the land to its original condition before the construction by invoking Section 57(4) of the Tamil Nadu Town and Country Planning Act. As against the order rejecting the revision filed by the petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act, the above Writ Petition is filed. The petitioner has raised several grounds on the basis that the construction of the petitioner can be



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regularized as per the Tamil Nadu Combined Development and Building Regulations. The petitioner seeks exemption of land or relaxation of building plan parameters.

4. Having regard to the admitted fact that the petitioner has now put up construction not only on the whole of her property in which she claims ownership, but also covering the land which is classified as 'water body'. Therefore, the construction which is without any building plan approval, has to be demolished.

5. Having regard to the facts narrated above, this Court finds no merit in the writ petition, especially, when the petitioner's grievance cannot be considered in the light of the admitted fact that the petitioner had put up construction not only in her land but also by encroaching the land adjoining her property which is classified as a water body. The petitioner states that



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she has filed a Civil Suit in O.S.No. 107 of 2023 which is pending before the Alandur Civil Court. The petitioner states that she has put up construction in her Patta land which is classified as Grama Natham. The petitioner has not produced Patta. Since the fact that the petitioner has encroached the adjoining land is not in dispute in the writ petition and no specific ground is raised by the petitioner challenging the findings of the first respondent with regard to the encroachment by the petitioner in the water body, the impugned order passed by the second respondent, as confirmed by the first respondent, cannot be interfered with. Having found that the writ petition is devoid of merits, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed. However, liberty is given to the petitioner to seek regularization which is confined to the unauthorised construction in her own property.

[S.S.S.R., J] [N.S., J]
29.01.2024



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msm

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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