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WP.No.38512 of 2024

In the High Court of Judicature at Madras

Dated : 06.1.2025

Coram :

The Honourable Ms.Justice P.T.ASHA

Writ Petition No.38512 of 2024 &
WMP.No.41726 of 2024

G.Andal

...Petitioner

Vs

1.The District Revenue Officer,
Chennai Collectorate, Chennai-1.

2.The Revenue Divisional Officer,
Chennai Central, 5-73, SH 112,
Gandhi Nagar, Anna Nagar West
Extension, Chennai-40.

3.The Tahsildar, Aminjikarai,
Taluk Office, Gajalakshmi Colony,
1st Street, Shenoy Nagar,
(Near Aminjikarai Market),
Chennai-30.

4.M.Vimala

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st respondent to consider and dispose of the revision petition filed by the petitioner on 04.1.2024 against the order of the 2nd respondent passed on 24.11.2023 in Na.Ka.No.A5/2143/2022 within a time frame stipulated by this Court.



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For Petitioner : Ms.S.P.Arthi
For R1 to R3 : Mr.P.Sathish, AGP

ORDER

Seeking a direction to the first respondent to dispose of the revision petition dated 04.1.2024 as against the order of the second respondent dated 24.11.2023, the petitioner is before this Court.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader accepting notice for respondents 1 to 3.

3. The case of the petitioner is as follows :

(i) The petitioner is the owner of the property measuring 1,358 sq.ft. at plot No.37A, door No.37/1, Venkatesa Nagar Extension II, Second Main Road, Virugambakkam, Chennai-92 along with an undivided share of 262.50 sq.ft in a common pathway on the eastern side measuring 7 feet X 75 feet. She acquired the same by way of a sale deed dated 04.7.1990 registered as doc.No.3396 of 1990 on the file of the Sub-Registrar, Anna Nagar. Pursuant to a sale deed, the fourth respondent also acquired a property on the rear side of the property of the petitioner. The common pathway is designated for their use mutually and it has also been specified in their respective sale



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deeds.

(ii) The third respondent wrongly and unilaterally issued a patta in favour of the fourth respondent indicating her exclusive possession over the entire pathway. Taking advantage of the erroneous patta, the fourth respondent encroached the common pathway, made unauthorized constructions and prevented access to the subject property. Hence, the petitioner filed a representation dated 31.12.2020 before the third respondent seeking cancellation of the patta issued in favour of the fourth respondent. However, it did not evoke any response.

(iii) Challenging the inaction on the part of the third respondent, the petitioner filed an appeal to the second respondent on 10.5.2022. In the meanwhile, the petitioner filed O.S.No.323 of 2021 before the City Civil Court, Chennai against the fourth respondent and her husband - Mr.Prasad seeking permanent injunction from putting up any unauthorized construction in the common pathway and mandatory injunction to remove the unauthorized constructions made by the fourth respondent and it was dismissed for default on 29.8.2023. The petitioner filed an application to restore the said suit and it is still pending.

(iv) Thereafter, the second respondent passed an order dated 24.11.2023 dismissing the appeal filed by the petitioner on the ground



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that the said suit is pending before the Civil Court and that further action would be taken subject to the outcome of the said suit. Aggrieved by the said order passed by the second respondent, the petitioner filed a revision petition dated 04.1.2024 before the first respondent. Pursuant to that, the first respondent directed the second respondent to measure the subject property and submit a report so as to resolve the dispute. But, the matter is kept in cold storage. Even after making a representation dated 28.5.2024 to the first respondent, no further action has been taken.

(v) According to the petitioner, the right and title to the common pathway is not in dispute. In the said suit, the petitioner has only sought for a permanent injunction against the defendants from putting up unauthorized construction in the common pathway and a mandatory injunction to demolish the unauthorized construction in the common pathway. Hence the writ petition.

4. As could be seen from the averments in the affidavit filed in support of the writ petition, the tenant of the petitioner lodged a complaint dated 20.7.2024 in Crime No.364 of 2024 on the file of the Inspector of Police, Virugambakkam Police Station against the fourth respondent's husband and son under Sections 296(b) and 115(2) of the Bharatiya Nyaya Sanhita. It is more than a year since the revision



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petition has been filed before the first respondent. Hence, this Court is constrained to issue a direction to the first respondent to dispose of the revision petition at the earliest.

5. Accordingly, the writ petition is allowed and a Mandamus is issued to the first respondent to dispose of the revision petition dated 04.1.2024 filed by the petitioner on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected WMP is closed.

06.1.2025

To

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Extension, Chennai-40.

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RS



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