

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P. No. 12887 of 2015

Mrs.Rizwana Banu

... Petitioner

vs.

1 The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Poonamallee High Road,
Chennai 600 003.

2 Selvam

3 Rajeswari

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the 1st respondent to remove the encroachment made by the 2nd and 3rd respondents in the Common Pathway (Tera Venkatasami Lane), Triplicane, Chennai-600 005.

For petitioner

: Mr. S. Prabakaran

for

M/s. T.P. Senthilkumar

For respondents

: Ms. Karthikaa Ashok - R1

- - - - -

ORDER

(Order of the Court was made by **SATISH K. AGNIHOTRI, J.**)

The petitioner has come up with the instant writ petition seeking a direction to the first respondent to remove the encroachment made by the respondents 2 and 3 in the common pathway (Tera Venkatasami Lane), Triplicane, Chennai.

2. The petitioner, claiming to be a resident of Tera Venkatasami Lane, Triplicane, Chennai, states that on account of certain encroachments made by the second and third respondents on the Government Pathway viz., Tera Venkatasami Lane, she is not in a position to have proper ingress and egress to her property.

3. Pursuant to our notice dated 28.04.2015, the first respondent had filed an affidavit stating as under:-

" (7) I respectfully submit that the subject temple is erected long back and has many devotees, who are regularly conducting festivals and routine Poojas to the deity, whereas, this petitioner had purchased the property very recently and constructed a residential building without obtaining due approval from the authorities concerned for which the Corporation had initiated appropriate action.

(8) I respectfully submit that it is once again reiterated that the pathway where the subject temple is erected is a private property, hence, corporation has no authority to deal with this issue. The petitioner has to resort to the other remedies left open to her to remove the temple. Moreover, it is pertinent to state that the representation sent by the petitioner calls for the initiation of criminal action and as far as the removal of temple is concerned it is humbly stated that the subject lane namely Dera Venkataswami Lane is not contained in the registers maintained by the Corporation and so it is a private property whereas the Dera Venkataswami Street is maintained by the Corporation and that is not the road where the subject temple is erected. "

4. Learned counsel for the petitioner submits that though, it appears that, the subject lane is not a Government pathway, the petitioner is entitled to have access to her property and as such, a direction may be issued to remove the encroachment, if any, even in the private property, by the authority.

5. From the facts as aforesaid, it appears that the dispute is with regard to a private land. Thus, exercising our jurisdiction under Article 226 of the Constitution of India, no direction can be issued. However, liberty is reserved to the petitioner to take recourse to the competent jurisdictional civil Court for appropriate relief, if so advised, under the provisions of law.

6. This writ petition is disposed of accordingly. No costs.

-sd/-

ASSISTANT REGISTRAR

/ TRUE COPY /

Sub-Assistant Registrar

To

1 The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Poonamallee High Road,
Chennai 600 003.

+1 cc to MR.A.KARTHIKA ASHOK Advocate SR.NO. 29120

+1 cc to M/S.T.P./SENTHIL KUMAR Advocate SR.NO. 29315.

sai[co]

RD 30/06/2015

सत्यमेव जयते

WEB COPY