

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.10785 of 2016
and W.M.P.No.9437 of 2016

M.K.Mustaffa

... Petitioner

vs.

1.The Principal Secretary to Government,
Highways and Minor Ports Department,
Fort St. George, Secretariat,
Chennai-9.

2.The Director General,
Highways Department,
PWD Complex, Kamarajar Salai,
Chepauk, Chennai-5.

3.The Director,
Highways Research Station,
76, Sardar Patel Road,
Guindy, Chennai-25.

4.The Divisional Engineer,
Highways Department,
76, Sardar Patel Road,
Guindy, Chennai-25.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to abstain from constructing Short Compound Wall enclosing the space underneath the Over bridge from Anna Arch to Nelson Manickkam Road and further directing the respondents to allow the petitioner to park his vehicles in the space underneath the bridge.

For Petitioner : Mr.R.Rajesh Kumar
For Respondents : Mr.S.Navaneethan,
Addl. Govt. Pleader.

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to abstain from constructing Short Compound Wall enclosing the space underneath the Over bridge from Anna Arch to Nelson Manickkam Road and further directing the respondents to allow him to park his vehicles in the space underneath the bridge.

3. It is the case of the petitioner that he is the owner of the building situated at 633/6, PH Road, Aminjikarai, Chennai-20. On the southern side of his building, Poonamallee High Road (EVR Periyar Road) is situated. The respondent department acquired his land abutting the Poonamallee High Road, measuring about 600 sq.ft and used the same for constructing service road for the over bridge constructed from Anna Arch connecting Nelson Manickkam Road. The petitioner was using the front area for parking his vehicles and two wheelers. But, due to the acquisition by the respondent department, the petitioner is not able to park his vehicle inside his property. Further, due to the construction of service road, he is not able to park his vehicle even on the road, which is always filled with traffic. However, after construction of the over bridge, the petitioner used to park his vehicles beneath the over bridge. He was under the impression that the space beneath the building would be allotted for parking for the building owners, who have given their valuable land for the construction of bridge. While so, the respondent department started to construct short compound wall enclosing the area beneath the over bridge and the said space could not be used for any purpose. If the compound wall is constructed, it will cause major parking problem for the building users of the entire stretch including the petitioner's building. Due to the acquisition by the respondent department, there is no area left for parking. If the compound wall is constructed, the space would not be utilized for any purpose and if the parking is permitted, it will greatly reduce traffic and parking problem in the area. In this regard, the petitioner made a representation dated 12.3.2016 to the respondents to stop the construction of the compound wall. But, the respondents have not taken any action on the said representation. Hence, the petitioner has come up with the present writ petition seeking a direction to the respondents to abstain from constructing Short Compound Wall enclosing the space underneath the Over bridge from Anna Arch to Nelson Manickkam Road and further directing the respondents to allow him to park his vehicles in the space underneath the bridge.

4. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim made by the petitioner, this Court directs the fourth respondent to consider the representation of the petitioner dated 12.3.2016 and pass appropriate orders on merits and in accordance with law, by affording an opportunity of personal hearing to the petitioner as well as to the necessary parties, if any, within a period of four weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.
sbi

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1.The Principal Secretary to
Government,
Highways and Minor Ports
Department,
Fort St. George, Secretariat,
Chennai-9.

2.The Director General,
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PWD Complex, Kamarajar Salai,
Chepauk, Chennai-5.

3.The Director,
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Guindy, Chennai-25.

4.The Divisional Engineer,
Highways Department,
76, Sardar Patel Road,
Guindy, Chennai-25.

+ 1 cc to Mr.R.Rajeshkumar, Advocate SR 18334

+ 1 cc to Govt.Pleader SR 18685

scd(co)
prk20/4

W.P.No.10785 of 2016