

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2016

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN, J

Writ Petition No.30543 of 2016
and
W.M.P.No.26479 of 2016

K.M.Jaisekar

...Petitioner

vs.

1.The Commissioner
Corporation of Chennai,
Rippon Buildings,
Chennai - 3.

2.The Executive Engineer,
Road and Bus Transport Department,
Corporation of Chennai,
Rippon Buildings,
Chennai - 3.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus forbearing the respondents their subordinates from installing the bus shelter in front of the petitioner's premises at No.420/1213, Thiruvottiyur High Road, Old Washermenpet Chennai as communicated by the second respondent in his communication dated 27.04.2016.

For Petitioner : Mr.Devaraj,
for Mr.G.K.Harihararajan

For Respondents : Mr.P.V.Selvakumar

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ORDER

The petitioner is before this Court with this writ petition seeking a writ of mandamus to forbear the respondents from installing the bus shelter in front of the petitioner's premises at No.420/1213, Thiruvottiyur High Road, Old Washermenpet Chennai, as communicated by the second respondent in his communication dated 27.04.2016.

2.The petitioner is the owner of the property bearing Door No.420/1213, Thiruvottiyur High Road, Old Washermenpet, Chennai. In front of the petitioner's house, there was a old bus shelter and that was removed. Subsequently, the respondents are attempting to make a new bus shelter to provide seats for the passengers. That apart, the new bus shelter also covers the backside of the old bus shelter which according to the petitioner will affect the entry into the petitioner's premises. The old bus shelter was in a open type whereas, the new bus shelter is a closed one. In this regard, the petitioner sent a notice to the respondents on 13.03.2016 and for which, a reply dated 27.04.2016 was received from the respondents. In the said reply, the respondents assured that the petitioner's interest will not be affected. However, contrary to the assurance given by the respondents, in the said reply notice, erection of new bus shelter is made, in such a way thereby affecting the entry into the petitioner's premises. Therefore, the petitioner is before this Court with this writ petition.

3.Heard, Mr.Devaraj, learned counsel for the petitioner and Mr.P.V.Selvakumar, learned counsel for the respondents.

4.A counter affidavit has been filed by the respondents. In the said counter affidavit, the respondents have stated that one Mr.C.Shanmugam, who is the neighbour of the petitioner has filed a writ petition in W.P.No.22256 of 2016 in respect of the same issue. In the said writ petition, this Court by order dated 29.06.2016, has issued the following direction to the respondents:-

"....2. It is open to the respondent to erect the bus stand in the same place where the open type bus stand was in existence. However, the authorities are restraining from putting upon any side walls by way of erection of boards, etc., in the bus stand....."

The respondents have further stated that as per the order passed by this Court, the new bus shelter has been erected in front of the house of the petitioner, where the open type old bus stand was in existence. It has been further stated that the new bus shelter was not erected either inside the property of the petitioner or the adjoining property of the petitioner. In effect, the new bus shelter has been erected on the margin of the road which will not affect any way the use of the petitioner's premises. It has been further stated that the new bus shelter was not put up abutting the petitioner's premises and the respondents have demolished the old existing bus shelter in front of the petitioner premises and has put up new stainless steel open type bus stop in the existing location.

5.In view of the above statements made in the counter affidavit, other than what has been provided by the respondents, nothing more can be ordered to be given to the petitioner.

6.With the above observation, the writ petition is disposed of. No cost. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

jbm

To

1.The Commissioner
Corporation of Chennai,
Rippon Buildings,
Chennai - 3.

2.The Executive Engineer,
Road and Bus Transport Department,
Corporation of Chennai,
Rippon Buildings,
Chennai - 3.

1 CC to M/s. S.Sugumar, Advocate, SR. 51502

W.P.No.30543 of 2016

NR (CO)
PSI 05/10/2016

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