

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2017

CORAM

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.21000 of 2017
and W.M.P.No.21887 of 2017

M.Indira

..Petitioner

-vs-

1. The State of Tamil Nadu,
Rep. By its Secretary to Govt.,
Municipal Administration and Water
Supply Dept., Fort St. George,
Chennai 600 009.
2. The Commissioner of Municipal
Administration, Ezhilagam Annexe
Building, 6th Floor, Chepauk,
Chennai 600 005.
3. The District Collector,
Tiruppur District, Tiruppur.
4. The Revenue Divisional Officer,
Udumalaipettai, Tiruppur District.
5. The Tahsildar,
Udumalaipettai Taluk,
Tiruppur District.
6. The Commissioner,
Udumalaipet Municipality,
Udumalaipettai.

..Respondents

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Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to forbear the 6th respondent from laying road in the petitioner's patta lands in T.S.No.16 (measuring 5.5 cents) & T.S.No.3 (part) (measuring 2 cents) and in the lands enjoyed by the petitioner in T.S.No.17 (part) (measuring 1004 sq. ft.); T.S.No.15 (part) (measuring 1080 sq.ft.) and T.S.No.3 (part) (measuring 1258 sq. ft.) at

Block F, Ward 3 of Udumalaipet Town, situated in Door No.35 A & 35 A1, Kabburkhan Street, Udumalaipet, without following the due process of law.

For Petitioner : Mr.M.Sivavarthanan

For Respondents : Mr.P.V.Selvakumar
Addl.G.P. for RR 1 to 5

: Mr.A.Thambusamy for R-6

ORDER

The petitioner has filed the above writ petition to issue a writ of mandamus forbearing the sixth respondent from laying the road in the petitioner's patta lands in T.S.No.16 (measuring 5.5 cents) & T.S.No.3 (part) (measuring 2 cents) and in the lands enjoyed by the petitioner in T.S.No.17 (part) (measuring 1004 sq. ft.); T.S.No.15 (part) (measuring 1080 sq.ft.) and T.S.No.3 (part) (measuring 1258 sq. ft.) at Block F, Ward 3 of Udumalaipet Town, situated in Door No.35 A & 35 A1, Kabburkhan Street, Udumalaipet, without following the due process of law.

2.The learned counsel appearing for the petitioner submitted that the sixth respondent, in order to demolish the petitioner's house, has come to the petitioner's property on 18.07.2017 and therefore, the sixth respondent should be restrained from taking any action except under due process of law.

3.Mr.P.V.Selvakumar, learned Additional Government Pleader, takes notice for respondents 1 to 5.

4.Mr.A.Thambusamy, learned counsel, taking notice for the sixth respondent, submitted that the sixth respondent has not gone to the petitioner's property for demolishing the house. However, the sixth respondent has gone there only to conduct survey of the land and only after surveying the petitioner's property, the sixth respondent will be in a position to know the extent of the property encroached by the petitioner. He further submitted that the sixth respondent would act in accordance with law and they will not act in any illegal or unlawful manner or in any manner whatsoever. The learned counsel appearing for the sixth respondent submitted that the sixth respondent will issue notice to the petitioner informing the date of survey, before surveying the petitioner's land.

5.The learned counsel appearing for the petitioner submitted that in view of the submissions made by the learned counsel for the sixth respondent, the sixth respondent may be directed to take action in accordance with law.

6.Having regard to the submissions made by the learned counsel on either side and recording the submissions made by the learned counsel for the sixth respondent, I make it clear that the sixth respondent shall take action against the petitioner in accordance with law in the case of the petitioner encroaching the land belonging to the sixth respondent. However, the petitioner shall not prevent the sixth respondent from surveying the land of the petitioner to ascertain the actual extent of the property encroached by the petitioner.

7.With these observations, the writ petition is disposed of. No costs. Consequently, W.M.P.No.21887 of 2017 is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sra

To

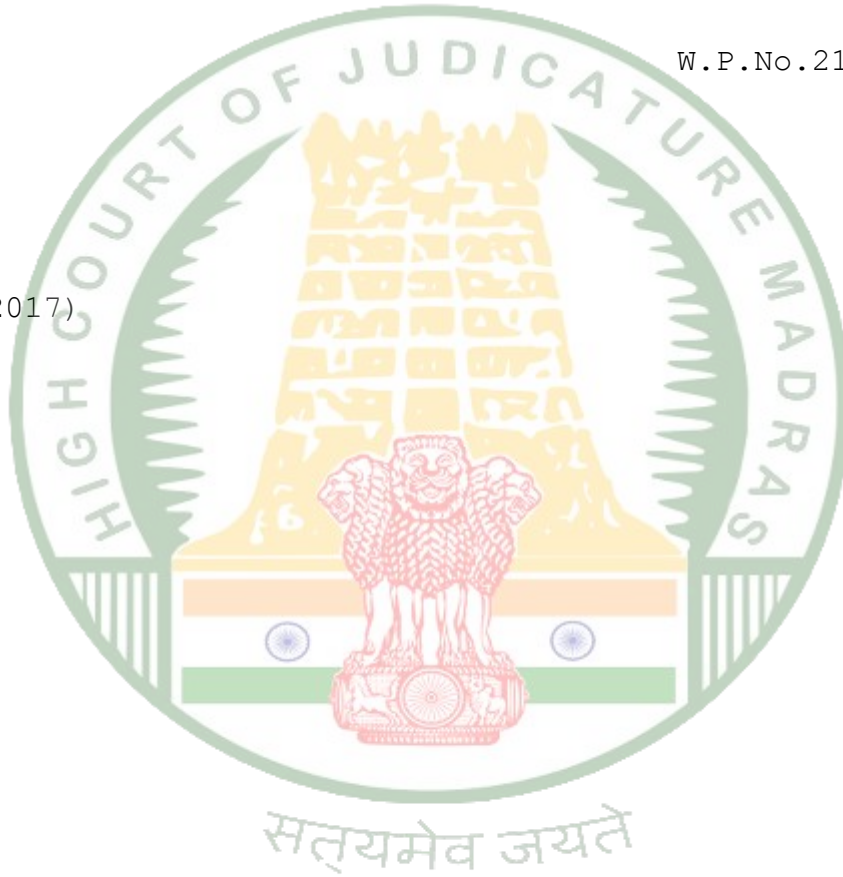
1. The Secretary to Govt. of Tamil Nadu,
Municipal Administration and Water
Supply Dept., Fort St. George,
Chennai 600 009.
2. The Commissioner of Municipal
Administration, Ezhilagam Annexe
Building, 6th Floor, Chepauk,
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5. The Tahsildar,
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Tiruppur District.
6. The Commissioner,
Udumalaipet Municipality,
Udumalaipettai.

+1cc to M/s.M.Sivanantham, Advocate, S.R.No.56626
+1cc to M/s.A.S.Thambuswamy, Advocate, S.R.No.56512
+1cc to the Government Pleader, S.R.No.57491

W.P.No.21000 of 2017

SJ(CO)
CU(10/08/2017)



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