

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.08.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

WP.No.23553/2017

K.Sunil Kumar

.. Petitioner

Versus

1. The Commissioner of Land Administration
Land Administration, Ezhilagam
Chepauk, Chennai 600 005.
2. The District Collector,
Tiruvallur District, Tiruvallur.
3. The Revenue Divisional Officer
Ambattur Road, Ambattur,
Chennai 600 053.
4. The Tahsildar
Maduravoyal, Ganesh Nagar
Porur, Chennai 600 116.
5. Meera
6. Soundarajan
7. Thirukumaran
8. Rani
9. Ellammal
10. Deenadayalan

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to remove the encroachments made by the respondents 5 to 10 in the Public Road Government Poramboke Land at Poonamallee High Road, comprised in S.No.14, Nerkundram village, Maduravoyal Taluk, Tiruvallur District, by invoking the provisions of the Tamil Nadu Land Encroachment Act, 1905, within the time stipulated by this Court.

For Petitioner : Mr.B.Vijay

For RR 1 to 4 : Mr.A.N.Thambidurai, Spl.GP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondents 1 to 4.

2. The petitioner is a resident of Plot Nos.1 and 2, VGP Amudha Nagar, Maduravoyal, Chennai-95 and in the affidavit filed in support of this writ petition, would aver that he is carrying on business activity in Nerkundram village, Maduravoyal Taluk at Chennai 600 095 and according to him, the Tamil Nadu State Highways Department has decided to expand Poonamallee High Road in Nerkundram-Maduravoyal locality in order to ease the traffic congestion and the road margin comprised in S.No.14/2, 3, 4 and 5 has been classified as "public pathway road" as per the Revenue Records. The petitioner further aver that the respondents 5 to 10 had encroached upon the public road comprised in S.No.14 and started doing commercial activities and in this regard, he has submitted a representation dated 21.11.2016 to the 2nd respondent and the concerned officials had also initiated action against the encroachers / private respondents 5 to 10 under the provisions of the Tamil Nadu Land Encroachment Act, 1905, and aggrieved by the same, they preferred an appeal before the 2nd respondent and it was dismissed on 10.01.2017 vide proceedings in Na.Ka.No.21920/2016/M1. The 2nd respondent, while dismissing the appeal, has also directed the officials of the Chennai Corporation, Divisional Engineer, Highways Department as well as the respondents 3 and 4 herein to take appropriate action to remove the encroachment. The petitioner would further aver that the private respondents / encroachers had also filed a suit in OS.No.64/2007 on the file of the Court of the District Munsif, Poonamallee, against the respondents 2, 4, the jurisdictional Revenue Inspector as well as against the petitioner, praying for permanent injunction restraining the defendants, their agents or anybody acting on behalf of them from interfering or disturbing the peaceful possession and enjoyment of the land situate in S.No.14, No.1/9C, Nerkundram Village, Porur Sub Taluk, Maduravoyal Taluk, Tiruvallur District and pending disposal of the same, took out an application for ad-interim injunction and no interim orders have been passed. The petitioner, alleging inaction on the part of the concerned respondents to implement the order passed by the 2nd respondent dated 10.01.2017, has also

submitted a representation dated 03.04.2017 to the 3rd respondent and though it was received and acknowledged on the same day, no action has been taken and therefore, the petitioner is constrained to approach this Court by filing the present writ petition.

3. The learned counsel for the petitioner has invited the attention of this Court to the typed set of documents as well as the photographs and would submit that admittedly, the private respondents / encroachers are carrying on commercial activities and they are not residing in the said place and the encroachment is extended right up to the road margin and in the light of the dismissal of the appeal filed by them, there cannot be any impediment on the part of the respondents 3 and 4 and other revenue officials to take appropriate action to remove the encroachment.

4. Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 1 to 4 would submit that subject to filing of the revision by the encroachers under section 10-A of the Tamil Nadu Land Encroachment Act, 1905, and the subsistence of the interim orders, appropriate order action will be taken to clear encroachments within the stipulated time.

5. This Court has considered the rival submissions and also perused the materials placed before it.

6 A perusal of the order of the 2nd respondent dated 10.01.2017 cited supra would disclose that the appeal filed by the private respondents / encroachers was dismissed and the 2nd respondent has also directed the respondents 3 and 4, the officials of the State Highways as well as the Corporation of Chennai to take appropriate action to remove the encroachments. It is not clear from the materials placed whether the encroachers have availed the revisional remedy under section 10-A of the Tamil Nadu Land Encroachment Act, 1905.

7. In the light of the above facts and circumstances, the respondents 3 and 4 are directed to carry out the direction issued by the 2nd respondent dated 10.01.2017 in Na.Ka.No.21920/2016/M1 [cited supra] subject to legal intradict in the form of revision under section 10-A of the Tamil Nadu Land Encroachment Act, 1905, filed by the private respondents / encroachers, if any, within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the private respondents 5 to 10 / encroachers.

***8.The respective Zonal Officer, Viz., Zone - XI, of the Office of the Corporation of Chennai, is directed to carry out inspection of the petitioner's premises at Maduravoyal and find out whether there is any deviation or violation of the relevant norms and in the event of any infraction, shall take action in accordance with law.**

9. The writ petition stands disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS VI)
dt. 19.09.2017

As per order of this Court dated
22.09.2017, issue fresh order copy
copies already despatched on 31.03.2017

Sd/-
Assistant Registrar(CS-IV)
dat. 27.09.2017

//True Copy//

Sub Assistant Registrar

AP
To

1. The Commissioner of Land Administration
Land Administration, Ezhilagam
Chepauk, Chennai 600 005.
2. The District Collector,
Tiruvallur District, Tiruvallur.
3. The Revenue Divisional Officer
Ambattur Road, Ambattur,
Chennai 600 053.
4. The Tahsildar
Maduravoyal, Ganesh Nagar
Porur, Chennai 600 116.

To be substituted
to the order already
despatched on
21.09.2017

Copy to:-

1. The Zonal Officer
Zone-VII, Greater Chennai Corporation
MTH Road, Ambattur, Chennai 600 053.

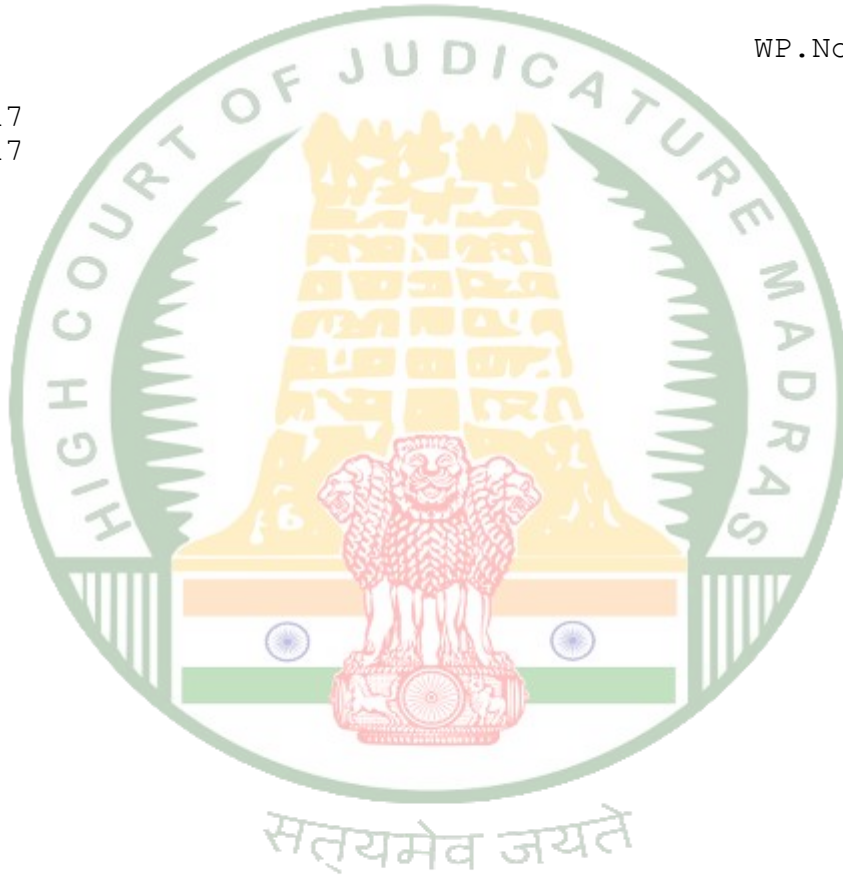
2. The Zonal Officer
Zone-IX, Greater Chennai Corporation
No.1, Lake Area, 4th Cross Street
Nungambakkam, Chennai 600 034.

3. The Zonal Officer, Zone-XI, Corporation of Chennai,
Bhuvanuswari Nagar, Valasaravakkam, Chennai-87

+lcc to Mr.B.Vijay, Advocate, S.R.No.62981
+lcc to the Government Pleader, S.R.No.63332

WP.No.23553/2017

AR(CS IV)
CS/19/09/17
EU 27.09.17



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