

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2017

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE M.SUNDAR

W.P.No.25685 of 2015
and
M.P.No.1 of 2015

Malligaicherry Village Madras Battai Road,
Resident's Welfare Association,
Regd. No.227/2006,
rep. by its Secretary D.Janakiraman,
Registered Office at
No.162/B, M.T.H.Road,
Villivakkam,
Chennai-600 049.

... Petitioner

-Vs-

1. The Chief Engineer,
Integral Coach Factory (Shell),
I.C.F. Colony P.O.,
Chennai-600 038.
2. The Thasildhar,
Chennai Purasaiwalkkam-Perambur Taluk,
Malligaicheri Town.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus forbearing the 1st respondent from encroaching upon the passage situate in S.No.183, Malligaicherry Battai Road, Purasawalkam, Perambur Taluk, Chennai and/or using it in any manner as a dumping yard for storage of 1st respondent waste materials.

For Petitioner : Mr.Sundaramurthy
For Respondent : Mr.T.N.Rajagopalan
Special Government Pleader
for R2
R1 - No appearance

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The controversy which has been raised is whether the road in question - stated to be located in S.No.183, Malligaicherry Battai Road, Purasawalkam, Perambur Taluk is a battai road as alleged by the petitioner or the road belonging to respondent No.1, over which the rights of passage were given on payment of charges, which were not being paid since 1994. The first respondent also alleges encroachments on the road and absence of the police assistance to enforce the rights of respondent No.1/Integral Coach Factory.

2. On hearing the learned counsel for parties and on the suggestions of the learned Special Government Pleader appearing for respondent No.2, it is directed that the Tahsildar, Chennai Purasawalkam-Perambur Taluk/respondent No.2 with the assistance of the Surveyor will carry out demarcation at site, after notice to both parties and dependant on the result of the survey, would the parties be entitled to enjoy the rights in respect of the passage. If it is a battai, the petitioner would be entitled to use as battai, if it is not, then the arrangement as envisaged by respondent No.1 earlier on payment of charges would have to be adhered to and respondent No.1 would have right to remove the encroachments on the road, for which the police assistance will be provided.

3. An inspection be made within fifteen days from the date of receipt of the copy of this order and proceedings thereafter be concluded in accordance with law after notice to all concerned, within a maximum period of three months thereafter.

4. The writ petition, accordingly, stands disposed of. No costs. Consequently, M.P.No.1 of 2015 is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Engineer,
Integral Coach Factory (Shell),
I.C.F. Colony P.O.,
Chennai-600 038.

2. The Thasildhar,
Chennai Purasaiwalkkam-Perambur Taluk,
Malligaicheri Town.

+1cc to the Government Pleader, S.R.No.2473

W.P.No.25685 of 2015

RSY (CO)
CA(18/01/2017)



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