

**IN THE HIGH COURT OF JUDICATURE AT MADRAS****DATED : 04.08.2017****CORAM****THE HONOURABLE MR.JUSTICE M.DHANDAPANI****W.P.No.13506 of 2004**

1.Mr.N.S.Abdul Jaleel  
2.Durai Ranaganathan  
3.P.Venkatesan  
4.P.M.Sundarajan  
5.V.R.Manika Vinayagam ... Petitioners

Vs.

1.The Secretary to Government,  
Municipal Administrator and  
Water Supply Department,  
Fort. St.George,  
Chennai – 600 009.

2.The Chairman and Secretary,  
Public Works Department,  
Fort. St.George,  
Chennai – 600 009.

3.The Commissioner  
Corporation of Chennai,  
Chennai – 600 003. ... Respondents

**Prayer:**

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to remove all the impugned construction put up by the 3<sup>rd</sup> respondent in the playground

situated inbetween 11<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> Cross Street, Shastri Nagar, Adyar, Chennai – 600 020 and also remove all the rubbish and building materials in the playground which was earmarked as play ground in the South Madras neighbourhood scheme by Government of Tamil Nadu.

For Petitioner : No Appearance  
For Respondents : Mr.A.Zakir Hussain for R1 and R2  
Government Advocate  
M/s.A.Karthika Ashok for R3

### **ORDER**

When the writ petition was listed on the earlier occasions on 21.06.2012, 14.07.2017 and on 21.07.2017, there was no representation for the petitioners and hence it was directed to be listed under the caption 'for dismissal'. Even today, when the matter is listed under the caption 'for dismissal', there is no representation for the petitioners. Hence, this Court decides the writ petition on merits.

2.Heard the learned Government Advocate appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent.

3.The petitioners, who are very much interested to secure and protect the play field situated in Shastri Nagar, Adyar, Chennai filed

this writ petition seeking issuance of Mandamus, directing the respondents to remove all the impugned construction put up by the third respondent in the playground situated inbetween 11<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> Cross Street, Shastri Nagar, Adyar, Chennai – 600 020 and also to remove all the rubbish and building materials in the playground which was earmarked as play ground in the South Madras Neighbourhood Scheme by Government of Tamil Nadu, since the respondents have not taken any steps to preserve the public place.

4. For the very same issue, the petitioners have already filed writ petition in W.P.No.8269 of 1999 seeking direction, forbearing the respondents from converting the children play space (play ground) in between 11<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> Cross Street, Shastri Nagar, to any other purpose other than for sports and games. The said writ petition was disposed of on 12.04.2000 permitting the Corporation to put a building to house three class rooms in a space measuring 420 sq.mtrs alone and aggrieved by the same, the writ petitioners filed Contempt Application No.338 of 2000 and in the contempt application, this Court vide order dated 05.07.2000, has held as follows:

***"I take a very lenient view of the matter and hold that no case is made out***

***to proceed further against the respondent though This Court disapproves the action of the Corporation in putting up construction in tending to violate the orders of this Court. In the above circumstances, this Court is of the view that further action is not called for."***

Thereafter, the present writ petition is filed.

5. Though the writ petition has been filed during the year 2004, after a lapse of nearly thirteen years, counter affidavit has been filed on behalf of the third respondent and it is useful to extract hereunder paragraph no.4 of the counter affidavit:

***"4. Adjacent to the land allotted to the third party, this Corporation for the want of school in the locality had decided to construct a Primary School to cater to the poor families in the area of Sastri Nagar, Vannandurai, Parameswari Nagar, kakkan Colony, etc., which was in existence long back in a thatched hut and in the interest of students this Corporation had initiated the construction and almost had reached the finality. The petitioner had filed a Writ Petition in W.P.No.8269 of 1999 before this Hon'ble Court against this Respondent***

***Corporation from converting the Children's playground for any other purpose. Wherein, this Hon'ble Court was pleased to pass an Interim Order directing the Respondent Corporation to construct only 3 Class rooms. And had further directed to maintain the remaining portion of the land as playground."***

6.The learned counsel appearing for the third respondent would submit that except three class rooms, no other construction was made in the disputed area and they are maintaining the portion as play ground.

7.Recording the said submission, this writ petition is closed. However, liberty is granted to the petitioners to approach the third respondent Corporation, if any further encroachment or alienation is made by any third parties. No costs.

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04.08.2017

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

**M.DHANDAPANI,J.**  
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To

- 1.The Secretary to Government,  
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Water Supply Department,  
Fort. St.George,  
Chennai – 600 009.
- 2.The Chairman and Secretary,  
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