

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL  
and  
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.28652 of 2016

1. S.G.Rajan  
2. G.Natarajan  
3. V.Jayasankar  
4. P.Chinnaraj  
5. A.Lakshathipathy ... Petitioners

Vs.

1. The Commissioner,  
Corporation of Chennai,  
Rippon Building,  
Chennai-600 003.  
2. The Member Secretary,  
Chennai Metropolitan Development Authority,  
Thalamuthu-Natarajan Building,  
No.1, Gandhi-Irwin Road,  
Chennai-600 008.  
3. The Regional Deputy Commissioner,  
Zone-Central, VI to X  
No.12B, Pulla Avenue,  
Thiru.Vi.Ka.Park,  
Shenoy Nagar, Chennai-600 030. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the Respondents to take immediate steps to demolish the unauthorised and illegal constructions and remove the illegal Encroachments abutting Metha Nagar and on the Public Road on the Eastern side Road of Metha Nagar with a width of 20 feet on the banks of Cooum River and restore to its original position and further developed.

For petitioner : Mr.A.Govindasamy  
For Respondents : Mr.Arun Mozhi for RR-1 and 3  
Mr.P.S.Ganesh for R-2

## ORDER

(The Order of the Court was made by M.Venugopal, J)

This Writ Petition is filed for issuance of a Writ of Mandamus to direct the Respondents to take immediate steps to demolish the unauthorised and illegal constructions and remove the illegal Encroachments abutting Metha Nagar and on the Public Road on the Eastern side Road of Metha Nagar with a width of 20 feet on the banks of Cooum River and restore to its original position and further developed.

2. Heard both sides and perused the materials available on record.

3. The Petitioners are the residents of Metha Nagar, Chennai-600 029 and the said Metha Nagar is situated at T.S.No.28, Block No.19 and Revenue Survey No.1 and the lay-out was approved by the Town and Country Planning Authority, vide revised L.P.H.117/50 by the Joint Director of Town Planning, Government of Madras State. As a matter of fact, the Madras State N.G.O. Co-operative Building Society at Metha Nagar had paid the Development Charges at that point of time and a Gift Deed was also executed to and in favour of the Corporation of Madras so as to enable them to execute the development works (including development of Roads). The Corporation of Madras laid roads in the Nagar as 'Metal Roads', but left the Eastern side 20 feet Road situated between Cooum River and Plot Nos.13, 14, 32, 45, 46, 52, 68 and 74, as 'Mud Road' stating that the work will be taken up after construction of revetment to prevent erosion of rain and river and river water during the monsoon period. All the Roads including Eastern side Mud Road had been used by the public, ever-since the inception of the Colony. In reality, the Eastern side Mud Road is the only link Road for connecting six to seven main Roads in the Colony.

4. It is the further stand of the Petitioner that the other Roads inside the Colony were improved and black-topped, but the First Respondent/Corporation of Chennai had left the 20 feet Mud Road on the Eastern side of the Colony untouched, despite repeated requests by the public. The said Road continued to be a Mud Road as the authorities had not constructed revetment on River Bund to prevent erosion of rain and river water and the said Road has been encroached upon and unauthorised constructions have also sprung up.

5. The categorical plea of the Petitioners is that the plot owners of Plot Nos.13, 14, 32, 45, 46, 52, 68 and 74, while constructing their houses, had their house plan approved by the Corporation showing the Eastern boundary as 20 feet Road abutting 'Cooum River'. Furthermore, in the lay-out Plan No.L.P.H.117/50 approved by the Joint Director of Town Planning, it was clearly indicated about the 20 feet wide Road abutting 'Cooum River' on the Eastern side of the

colony. The said Public Road is bounded on the West by Plot Nos.13, 14, 32, 45, 46, 52, 68 and 74 and on the East by 'Cooum River' and since the Respondents have not developed the said Public Road, despite repeated requests of the residents of the area, the said Public Road was encroached upon and in short, illegal and unauthorised constructions have come up on the Public Road situated on the banks of 'Cooum River'.

6. The real grievance of the Petitioner is that the illegal encroachments will have to be removed and unauthorised constructions on the Public Road are to be demolished and the Eastern Road with a width of 20 feet on the banks of the 'Cooum River' have to be restored to public.

7. The petitioners, on 03.10.2015, made representations to the Respondent Nos.1 and 2. The Second Respondent/CMDA in its letter dated 06.11.2015 had forwarded the representations to the Regional Deputy Commissioner, Zone-Central VI to X, No.12-B, Pulla Avenue, Thiru-vi-ka Park, Shenoy Nagar, Chennai-600 030, the Third Respondent herein, for necessary action stating that the power is delegated by the CMDA for enforcement action on all types and categories of unauthorised/deviated construction.

8. Also, the Petitioners issued a Legal Notice, dated 18.01.2016 to the Respondents. Since there was no response from the Third Respondent, a 'Reminder' dated 06.03.2016 was issued to the Third Respondent. However, no action was taken by the Third Respondent. Hence, the Petitioners have filed the present Writ Petition.

9. In response, the Learned Counsel appearing for the Respondents 1 and 3 submitted that the 'Cooum River' is maintained by the Public Works Department (PWD) and on inspection, it was found that the PWD has earmarked on the alleged encroachments. In fact, further action is to be taken by the PWD in respect of the Encroachments in question. Apart from that, if any unauthorised constructions are found, further action will be initiated in accordance with the provisions of the Tamil Nadu Town and Country Planning Act, 1971.

10. Admittedly, in the present Writ Petition, the PWD is not arrayed as one of the Respondents. At this stage, it is represented on behalf of the Respondent Nos.1 and 3 that the encroachments in question were removed by the PWD authorities on 23.10.2018 and that, as on date, there are no Encroachments. Further, the unauthorised constructions/illegal constructions were also demolished. Moreover, it is brought to the notice of this Court on behalf of the Respondent Nos.1 and 3 that nearly 22 unauthorised/illegal buildings were demolished by the PWD Authorities.

11. Considering the fact that the PWD Authorities had demolished nearly 22 unauthorised/illegal structures on 23.10.2018 and since the relief sought for by the Petitioners in the present Writ Petition is fulfilled by the PWD Authorities concerned, this Court holds that nothing survives for further adjudication in the instant Writ Petition. Therefore, this Court, after recording the fact that nearly 22 illegal/unauthorised buildings/constructions were demolished, closes the present Writ Petition. No costs.

Sd/-  
Assistant Registrar(CS iv)

//True Copy//

Sub Assistant Registrar

cs  
To

1. The Commissioner,  
Corporation of Chennai,  
Rippon Building,  
Chennai-600 003.
2. The Member Secretary,  
Chennai Metropolitan Development Authority,  
Thalamuthu-Natarajan Building,  
No.1, Gandhi-Irwin Road,  
Chennai-600 008.
3. The Regional Deputy Commissioner,  
Zone-Central, VI to X  
No.12B, Pulla Avenue,  
Thiru.Vi.Ka.Park,  
Shenoy Nagar, Chennai-600 030.

+1cc to Mr.A.Govindasamy, Advocate SR.No. 85758  
+1cc to Mr.P.S.Ganesh , Advocate SR.No. 85404

ASK(04/01/2019) W.P.No.28652 of 2016

WEB COPY