

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.01.2018
Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

W.P.No.29273 of 2017

T.Vinodkumar

.. Petitioner

Vs.

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003
2. The Zonal Officer,
Zone-VII, Ambattur Zone,
Greater Chennai Corporation,
Ambattur, Chennai - 600 053
3. The Executive Engineer,
Zone - VII, Ambattur Zone,
Greater Chennai Corporation,
Ambattur, Chennai - 600 053
4. The Tahsildar,
Ambattur Taluk Office,
Ambattur, Chennai - 600 053
5. The Inspector of Police,
Korattur Police Station,
Korattur, Chennai - 600 080

6. S.Vedachalam
7. V.Santhoshkumar

सत्यमेव जयते

..Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 to 5 to consider the representation of the petitioner dated 26.10.2017 and thereby directing the respondents 1 to 5 to remove all the encroachments including the wall erected across the public road, namely 20 feet width Gopalakrishna Nagar Road, Gopalakrishna Nagar, Ward-E, Korattur, Chennai - 600 076 and to keep the same as road free from all encroachments and obstructions.

For Petitioner : Mr.R.Munuswamy

For Respondents : Mr.A.Nagarajan for R1 to R3
Ms.M.Lalitha for R4 and R5
Government Advocate
Mr.C.Anbarasu for R6 and R7

O R D E R

[Order of the Court was made by S.VAIDYANATHAN, J.]

The petitioner has come forward with this Writ Petition to direct the respondents 1 to 5 to consider and dispose of his representation dated 26.10.2017 and to remove all the encroachments.

2. The case of the petitioner is that he is the absolute owner of the property in question and purchased the same from one Chandrasekaran under a sale deed dated 04.07.2016. The petitioner constructed a house after obtaining necessary plan approval, building permission and housing loan at State Bank Of India. While so, the 7th respondent, who is the son of the 6th respondent, Ex.M.L.A, hailing from AIADMK Party came to the property along with rowdy elements and threatened the petitioner by uttering that the said Chandrasekaran has dues to them in real estate business and if he does not part with the due amount, they will block the road. Subsequently, 6th and 7th respondents raised permanent wall across the 20 feet width Gopalakrishna Nagar Road at the beginning of the petitioner's plot, thereby completely denying access to the petitioner's property. Aggrieved by the same, the petitioner submitted a representation cum complaint to the respondents 1 to 5 and requested them to remove or demolish the wall put up across the 20 feet width Gopalakrishna Nagar road, but, no action has been taken so far. Hence this Writ Petition.

3. Heard the learned counsel on either side.

4. Today, when the matter is taken up for hearing, the learned counsel appearing for the 2nd respondent produced the counter filed by the 2nd Respondent, wherein, in paragraph nos.8 and 9, it is stated as follows:

" I respectfully submit that as per the directions of this Hon'ble Court, this respondent along with the Tahsildar, Ambattur Taluk has inspected the site in question on 28.12.2017 and photographs were taken. Further the Tahsildar, Ambattur Taluk has submitted a report dated 29.12.2017 vide Na.Ka.No.3429/2017/C1 stating that the land at Ward-E, Block - 35, T.S.No.39/1 and 40/1 (Old S.No.185/2 and 185/2) is an unapproved layout and there is an encroachment in the tar road laid by the Chennai Corporation.

9. I respectfully submit that a letter dated 02.01.2018 has been addressed to the Assistant Commissioner of Police, Ambattur Range, requesting to provide police protection for removal of encroachment made by Mr.S.Vedachalam the sixth respondent herein. I further submit that the wall put by Mr.S.Vedachalam the sixth respondent herein has been removed by the officials of Greater Chennai Corporation on 05.01.2018 with the help of police protection. The

photographs taken at the time of removal of encroachment are annexed in the annexure."

5. A careful perusal of the counter affidavit filed by the 2nd respondent shows that admittedly, the 6th and 7th respondents are said to have made a layout, which is approved and the area, which is the subject matter of dispute is a 'Road'. Further, based on the action taken by the Tahsildar, the encroachment has been removed and the tar road has been restored. It is clearly stated that in an approved layout there is an encroachment in Tar road. According to the petitioner, respondents 6 and 7 encroached the tar road and the same has been denied by them. As could be seen from the layout produced, the disputed site is a tar road. The respondents 6 and 7 cannot continue to occupy the said place. The contention that the respondents 6 and 7 have not been given an opportunity, cannot be a ground to permit them to occupy the tar road. The compound wall that was constructed is now being removed. The plea of principles of natural justice cannot be extended to an encroacher of public road, when no prejudice is caused to the encroacher.

In view of the above findings, the Writ Petition stands disposed of. The 5th respondent is directed to ensure that there is no further encroachment in that place. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssd
To

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003
2. The Zonal Officer,
Zone-VIII, Ambattur Zone,
Greater Chennai Corporation,
Ambattur, Chennai - 600 053
3. The Executive Engineer,
Zone - VII, Ambattur Zone,
Greater Chennai Corporation,
Ambattur, Chennai - 600 053

4. The Tahsildar,
Ambattur Taluk Office,
Ambattur, Chennai - 600 053

5. The Inspector of Police,
Korattur Police Station,
Korattur, Chennai - 600 080

+2cc to Mr.R.Munuswamy, Advocate Sr.No.1612
+1cc to Government Pleader Sr.No.1840

GJ(CO)
sm:9.2.2018

W.P.No.29273 of 2017



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