

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 14.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No. 14824 of 2009
and M.P.No.1 of 2009

M/s. Shree Lakshmi Enterprises
Rep. by its Partner Anuja R.Balaji,
No.4A, Stringer Road,
Chennai - 600 003. Petitioner

vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Highways Department,
Fort St.George, Chennai - 600 009.
2. Chief Engineer,
Highways Department,
Panagal Maligai,
Saidapet, Chennai - 600 015.
3. The Assistant Engineer,
Highways Department,
Koyembedu Division,
Chennai - City Road,
No.269, GST Road,
Chennai - 600 015. Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 2nd and 3rd respondents or their men or any person claiming under them to remove the tar road illegally laid by them over this petitioner's property comprised in Survey No.233 (Part), T.S.No.15, Jawaharlal Nehru Road, Block No.28, Koyambedu village, Baimash No.627, Egmore - Nungambakkam Taluk, admeasuring 5685 Sq.ft and restore the same to its earlier position.

For Petitioner : Mr.A.R. Karunakaran
for Rajkumar.

For Respondents: Mr.M.Sricharan Rangarajan
(R1 to R3) Additional Government Pleader.

O R D E R

The present writ petition is for a writ of Mandamus directing the respondents to remove the tar road illegally laid by them over this petitioner's property comprised in Survey No.233 (Part), T.S.No.15, Jawaharlal Nehru Road, Block No.28, Koyambedu village, Baimash No.627, Egmore - Nungambakkam Taluk, admeasuring 5686 Sq.ft and restore the same to its earlier position.

2. Averments in the writ petition is under:-

The petitioner states that the extent of property was purchased by one Mr.Perumal by a registered sale deed dated 06.06.1951. The said Perumal passed away in the year 1980 and Thereafter, the patta was transferred in the name of his wife Mrs.Chellammal. After the demise of Mrs.Chellammal, property was inherited by her children who sold the property to the petitioner.

3. It is the contention of the petitioner that the Highway Department on 24.06.2009 demolished the fence and attempted to dig a road in the property by using a JCB and other machines. It is the contention of the petitioner that without any notice to them, the road had been widened on the property of the petitioner. The petitioners are praying for removal of the tar road by way of this writ petition.

4. Heard, both the learned counsel for the parties.

5. It is evident that, by way of this writ petition, the petitioner is trying to establish its title over the portion on which the road has been constructed. The petitioner is trying to establish his title by filing the sale deed by which he has purchased the property. Title over any property has to be necessarily established in a suit wherein the petitioner has to lead evidence and establishing this title.

6. Writ is not the proper remedy for establishing title. The writ petition as framed is not maintainable. The writ petition is dismissed. The petitioner is at liberty to file a proper suit to establish the title over the portion on which the road has been laid.

7. This court has not expressed any opinion that as to whether the Highway Department has encroached over the property or not and whether the road has been laid over the property of the petitioner or not. With these observations the writ petition is dismissed.

Sd/-

Assistant Registrar(CCC)

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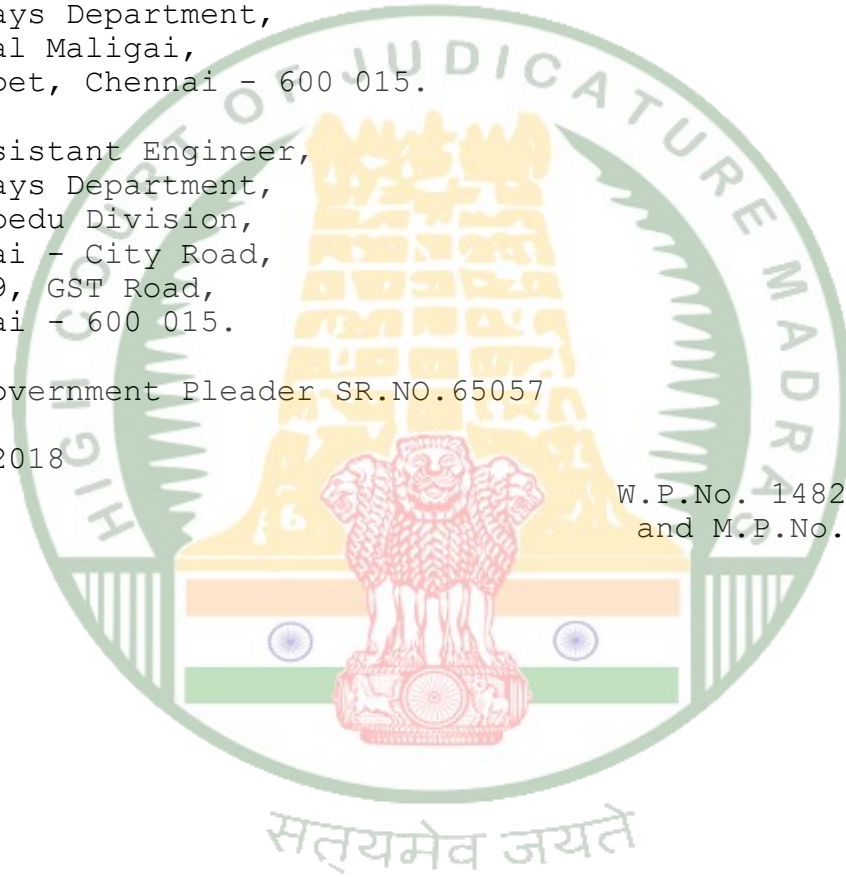
To

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Highways Department,
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Thiruvalluvar District.
2. Chief Engineer,
Highways Department,
Panagal Maligai,
Saidapet, Chennai - 600 015.
3. The Assistant Engineer,
Highways Department,
Koyembedu Division,
Chennai - City Road,
No.269, GST Road,
Chennai - 600 015.

+1cc to Government Pleader SR.NO.65057

sm:17.10.2018

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