

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2018

CORAM:

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

W.P.No.2314 of 2017

S.Parthiban

.. Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.
2. The Deputy Commissioner (Works),
Corporation of Chennai,
Rippon Building, Chennai-600 003.
3. The Regional Joint Commissioner,
Corporation of Chennai,
Rippon Building, Chennai-600 003.
4. The Regional Deputy Commissioner (Central),
Corporation of Chennai,
Pulla Avenue, Shenoy Nagar,
Chennai-30.
5. The Asst. Commissioner,
Corporation of Chennai,
Zone-X, Kodambakkam,
Chennai-24.
6. The Zonal Officer,
Greater Chennai Corporation,
Zone-10, Kodambakkam,
Chennai-600 024.
7. The Executive Engineer,
Corporation of Chennai,
Zone-10, Kodambakkam,
Chennai-600 024.

8. The Executive Engineer,
BRR (Bus Route Road),
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.
9. The Principal Secretary,
Municipal Administration and
Metro Water Department,
Secretariat, Chennai-9.

(Ninth Respondent is impleaded as
per order dated 26.04.2017 in
W.P.No.2314 of 2017)

.. 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 remove the remaining encroachments in the Kodambakkam Road (Bus Route Road) and widen the same as per the Proceeding of the sixth respondent in Zone-X/C.No.A8/13411/2016, dated 06.07.2016 within a time that may be stipulated by this Court.

For Petitioner : Mr.A.Ilaya Perumal
For Respondents : Mr.K.Magesh
for Mr.K.Soundararajan for RR-1 to 8
Mr.S.N.Parthasarathy,
Govt. Advocate for R-9

ORDER

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

The Petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents to remove the remaining encroachments in the Kodambakkam Road (Bus Route Road) and widen the same as per the Proceeding of the sixth respondent in Zone-X/C.No.A8/13411/2016, dated 06.07.2016 within a time that may be stipulated by this Court.

2. It transpires that this Court, on 06.04.2017, had inter-alia observed as under:

"... ..
In the counter affidavit, it has now been stated by the respondent Corporation that the encroachers have been removed and with regard to the others on either side of the road, they are not encroachers and therefore, land acquisition proceedings have to be initiated for widening the road.

It is submitted by the learned Standing Counsel for the Corporation that they have a proposal in place for the same and that they would be proceeding with it.

We direct the learned Standing Counsel for the Corporation to place before this Court a definite road map with indicative time frames for widening of the above said road.

.. .."

3. Today, Mr.M.Victor Gnanaraj, Executive Engineer (i/c), BRR Department, Greater Chennai Corporation, is present before this Court and he has filed a Status Report, dated 13.08.2018, wherein in paragraphs 2 and 3, it is observed as under:

"2. I submit that the encroachments on the Kodambakkam Road was removed fully. I submit that in so far as the widening of the said Road, it is already approved by the Chennai Metropolitan Development Authority vide its M.U.A., Detailed Development Plan during the year 1995 to widen the road at 18 Metres. I submit that the CMDA before publishing the Second Master Plan 2008, had granted the approval for the proposed expansion but, the acquiring the private buildings, a huge expenditure has been estimated for which the 1st respondent addressed a letter to the Government seeking the permission to acquire private lands on the TDR basis as early as March, 2016, but no reply has been received from the Government, till date. I submit that only a single route bus is plying in this road, the acquisition is pending in view of the large extent of private lands are to be acquired. Further as on today, planning permission on the said road is given after 9 metres from the centre of the road in view of the CMDA's Detailed Development Plan published, in order to widen the road in future.

3. I submit that, in any event, the encroachments were removed and, therefore, there is no traffic congestion on the said road as on today."

4. That apart, this Court, on 27.11.2018, had directed the Eighth Respondent to appear in person before this Court today (05.12.2018) and to explain as to why he had not adhered to the order passed by this Court in true letter and spirit.

5. Pursuant to the above direction issued by this Court on 27.11.2018, the Eighth Respondent, viz., M.Victor Gnanaraj, Executive Engineer (i/c), BRR Department, Greater Chennai Corporation, has appeared before this Court today, i.e. 05.12.2018, and informs this Court that the encroachments were removed, and there is no traffic congestion on the said road as on today. Since the Writ Petition pertains to removal of encroachments on either side of the road in road margin and this Court, taking note of the fact that the Respondent/Corporation of Chennai had removed the 'Encroachers' and in regard to the other side of the road, they are not 'Encroachers' and as such, the land acquisition proceedings will have to be initiated for widening the road, etc., this Court records the contents of the aforesaid Status Report filed by the Eighth Respondent. If the Petitioner subjectively opines that there are Encroachments and still they were not removed, then it is open to the Petitioner to institute appropriate proceedings before the competent Forum, if he so desires/if he is so advised, of course, in the manner known to Law and in accordance with Law.

6. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

cs

To

1. The Principal Secretary,
Municipal Administration and
Metro Water Department,
Secretariat, Chennai-9.

+1 cc to Mr.A.Ilayaperumal, Advocate, SR No.84322

+1 cc to Mr.K.Soundararajan, Advocate, SR No.83572

W.P.No.2314 of 2017

ks(co)

ssm(21/12/18)