

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 31.10.2018
CORAM:
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
W.P.No.26545 of 2018
and WMP No.30885 of 2018

Mrs. Constance Delphine Gomez ...Petitioner
Vs.

1. The Commissioner,
Greater Chennai City Corporation,
Rippon Building,
Periamet, Chennai 600 003.
2. The Zonal Officer,
Zone - 6,
Greater Chennai City Corporation
No.5, Anderson Street,
Ayanavaram, Chennai 600 023.
3. The Executive Engineer,
Zone - 6,
Greater Chennai City Corporation,
No.5, Anderson Street,
Ayanavaram, Chennai 600 023.
4. The Commissioner of Police,
Office of the Greater Chennai City Police Commissioner,
Veppery, Chennai 600 007.
5. The Inspector of Police,
K-1, Sembiam Police Station,
Papermills Road,
Perambur, Chennai 600 011.
6. Mr.Kathiresan ...Respondents

Writ Petition Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 1st to 3rd respondents to consider the petitioner's representation dated 01.10.2018 and consequently direct the 1st to 3rd respondents to remove the unauthorized Arch in the entrance of Murugesha Street (Murugesha Mudali Street) from Foxen Street and the Mooshika Sthoopi by encroaching more than 3 ½ feet in the said Murugesha Street (Murugesha Mudali Street) by the 6th respondent in Corporation public street namely Murugesha Street (Murugesha Mudali Street) is situated in Ward No.69, Part 16, Zone 6 of Geater Chennai City Corporation.

For Petitioner : Mr.Stalin Abhimanyu

For Respondents : Mr.A.Nagaraj for R1 to R3

Mrs.Thangavadhana Balakrishnan
Addl. Govt. Pleader for R 4 & 5

Mr. P.Manikannan for R6

O R D E R

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The prayer in the Writ Petition is as follows:

"issuance of a Writ of Mandamus, directing the 1st to 3rd respondents to consider the petitioner's representation dated 01.10.2018 and consequently direct the 1st to 3rd respondents to remove the unauthorized Arch in the entrance of Muruges Street (Muruges Mudali Street) from Foxen Street and the Mooshika Sthoopi by encroaching more than 3 ½ feet in the said Muruges Street (Muruges Mudali Street) by the 6th respondent in Corporation public street namely Muruges Street (Muruges Mudali Street) is situated in Ward No.69, Part 16, Zone 6 of Geater Chennai City Corporation."

2. The petitioner seeks the above Mandamus contending that the 6th respondent had erected illegal and unauthorised structures on the Muruges Mudali Street and put up RCC Arch at the entrance of the said street, without any permission from the authorities.

3. It is the complaint of the petitioner that no action has been taken by the Authorities, despite the repeated complaints made by her. Taking note of the seriousness of the violations and the supine indifference exhibited by the Authorities in taking action, we had directed the Executive Engineer of the Greater Chennai City Corporation, Zone-6, to inspect the unauthorised construction and submit a report on 11.10.2018, by our order dated 09.10.2018. Pursuant to the same, the Executive

Engineer had filed a report which reads as follows:

6. I respectfully submit that the said temple is in the private land and the Mooshika Sthoopi, 3 slabs for sitting were put up on the road adjoining to the temple and also the RCC Arch (60 mts x 90 mts) was put up in the road margin by encroaching the road. Further the sixth respondent herein has also put up a shed in front of the temple by covering the road to an extent of 6 meters x 3 meters approximately."

4. Taking note of the report, we had by our order dated 11.10.2018 directed the Zonal Officer, Zone-6, Greater Chennai Corporation, to remove the encroachments and report forthwith. The Zonal Officer had filed a report stating that the encroachments have been removed.

5. When the matter was listed before us on 22.10.2018, the 6th respondent who is said to have erected the illegal structures was directed to be served with notice and the matter was adjourned to 29.10.2018. On 29.10.2018, the counsel appearing for the petitioner submitted that the 6th respondent had parked his Mahendra Scorpio Car on the Murugesa Mudali Street which has a width of about 14 feet, preventing ingress and egress to the other occupants of the street. Photographs of the said car that was parked on the road were also produced before us.

6. The learned counsel appearing for the 6th respondent would submit that the car was only temporarily parked there and it is not a permanent parking. He also undertook to file an affidavit stating that he would not park the vehicle or put up any temporary or permanent structure on the street, which would cause inconvenience to the other occupants. The matter was posted today and today the learned counsel for the 6th respondent has filed an affidavit, wherein, the 6th respondent has stated as follows:

"4. I state and declare that I will not put up any of the permanent structure or parking my vehicle on the road for obstructing the usage of the way by others in the Murugesan Street (Murugesa Mudali Street). I state and declare that my statements may be recorded and pass further or other order as this Hon'ble court may deem fit and proper in the circumstance of the case and render justice"

7. The said statement is recorded and the Writ Petition is disposed of, as the offending structures have already been removed. The Official respondents are directed to maintain the street free of encroachment in future. Any slackness on the part of the official respondents in allowing encroachments on the street will be viewed seriously. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

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K-1, Sembiam Police Station,
Papermills Road,
Perambur, Chennai 600 011.

+1cc to Mr.Stalin Abhimanyu, Advocate sr.no.74773
+1cc to Government Pleader sr.no.78269
+1cc to Mr.A.Nagaraj, Advocate sr.no.75046

W.P.No.26545 of 2018
and WMP No.30885 of 2018

nr 18/12/2018