

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.4537 of 2011
and
M.P.Nos. 1 and 2 of 2011

K.R.Durairaj

Vs

... Petitioner

1.Arulmighu Kailasanathar Thirukkoil
Rep. by its Executive Officer
Office at Arulmighu Ellaiamman Temple
Veeraswamy Street, Periamet
Chennai-600 003

2.Consolidated Construction Consortium Ltd.,
Infracons Divison
Khiviraj Complex, Block No.2
8th Floor, 480, Anna Salai
Nandanam, Chennai-600 035

3.Chennai Metro Rail Limited
rep. by its Managing Director
Door No.11/6, Seethammal Road
Alwarpet, Chennai-600 018

... Respondents

(3rd respondent impleaded vide order
dated 25.01.2019 in M.P.No.2/2011 in WP.4537/2011)

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a writ of Prohibition forbearing the respondents herein and their men, agents and subordinates from in any manner disturbing the possession and enjoyment of the Petitioner of one acre of land abutting the Poonamallee High Court in S.No.8 of V in the schedule hereunder.

Schedule:-

One acre of land out of 5 acres and 56 cents abutting the Poonamallee High Road, in S.No.8 of Vanagaram Village, Saidapet Taluk, Chenglepet District, on the south of Poonamallee High Road, East of Kailasanathar Temple, North of land belonging to

Kailasanathar Temple and west of land belonging to Chengalvaraya Naidu, Devasthanam Street and Pananjalai.

For Petitioner : Mr.Kandavadivel Doraisami
For Respondents : Mr.Kailasam for R1
No appearance for R2
Mr.Jayesh B.Dolia for R3
(Proposed Respondent)

ORDER

This Writ Petition is filed praying to forbear the respondents and their men, agents and subordinates from in any manner disturbing the possession and enjoyment of the Petitioner of one acre of land abutting the Poonamallee High Court in S.No.8 of V in the schedule as set out above.

2. A perusal of the counter affidavit filed by the 1st respondent shows that the Petitioner seeks to protect his alleged possession, which is based on a lease and the said lease expired by efflux of time. Further, the 1st respondent Temple has stated that O.S.No.777 of 1995 filed by them has been dismissed and an appeal is filed in A.S.No.12 of 2011 and the same is pending. It is also stated in the counter that the mixed questions of fact raised in this Writ Petition cannot be adjudicated by this court.

3. Considering the facts and circumstances of the case, the third respondent-Chennai Metro Rail Ltd., is impleaded as party to the proceedings. M.P.No.2 of 2011 is allowed. The learned counsel appearing for the 3rd respondent submits that Chennai Metro Rail has taken possession of the subject land and completed the project and after the completion of Project, the possession was handed over to the 1st respondent/Temple. The submission of the counsel for 3rd respondent is recorded.

4. In view of the above, nothing survives for adjudication in this writ petition. If the Petitioner is aggrieved, the proper remedy is to approach the civil forum. Accordingly, the Writ Petition is dismissed. No costs. M.P.No.1 of 2011 is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

nvsri

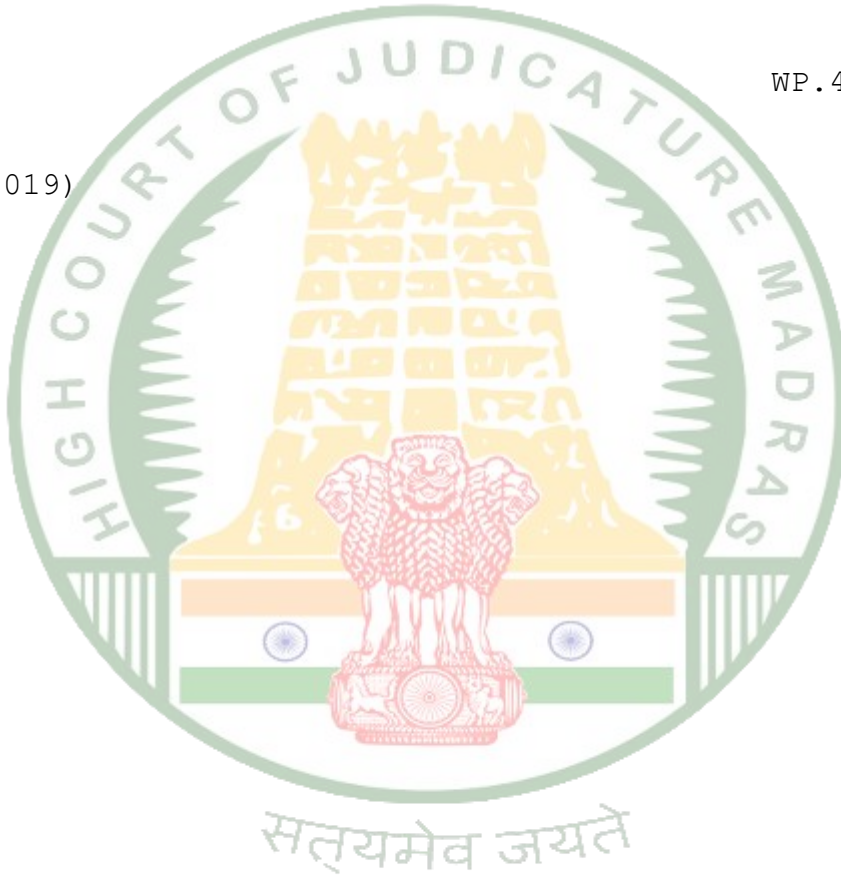
To

1.Managing Director,
Chennai Metro Rail Limited
Door No.11/6, Seethammal Road
Alwarpet, Chennai-600 018

+lcc to Mr.Muthumani Doraisami, Advocate, S.R.No. 5932
+lcc to Mr.A.S.Kailasam & Associates, Advocate, S.R.No.6321
+lcc to Mr.Jayesh B.Dolia, Advocate, S.R.No. 5939

WP.4537 of 2011

NMI (CO)
GN(11/03/2019)



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