

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.9759 of 2011
and
M.P.No.1 of 2011

1.Kursheed Mohammed Khan
2.Rafiq Mohd Khan
3.Mahaboosha Begum
4.Faisal Mohammed Khan
5.Fahad Mohammed Khan

... Petitioners

Vs

1.The Secretary to Government of Tamil Nadu,
Public Works Department,
Fort St.George,
Chennai 600 009.

2.The Commissioner,
Corporation of Chennai,
Chennai 600 003.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, to direct the respondents to remove the wall put up by them in front of petitioners' gate abutting main road and restore the compound wall which stood between the petitioners' property and that of Raj Bhavan and situate in T.S.No.5, Block No.7, Venkatapuram Village, Velacherry Road, Guindy, Chennai 600 032.

For Petitioners : Mr.A.Muthukumar

For Respondents : Mr.J.Ramesh, AGP for R1

: Mrs.Karthikaa Ashok for R2

O R D E R

The present writ petition has been filed to direct the respondents to remove the wall put up by them in front of petitioners' gate abutting main road and restore the compound wall which stood between the petitioners' property and that of Raj Bhavan, situated in T.S.No.5, Block No.7, Venkatapuram Village, Velacherry Road, Guindy, Chennai 600 032.

2. The case of the petitioners is that the respondents are trying to interfere with the possession and enjoyment of the property owned by the petitioners. The respondents 1 and 2 have admittedly put a compound wall in front of the gate by preventing access to the petitioners' property. According to the petitioners, the respondents have also demolished the wall which stood between their property and Raj Bhavan. Therefore, the present writ petition has been filed, seeking direction to the respondents to remove the wall in front of the petitioners' gate.

3. From the averments and materials as disclosed, it appears that the dispute between the petitioners and the respondents is purely civil in nature and the same cannot be the subject matter of adjudication under the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

4. On behalf of the second respondent, counter affidavit has been filed disputing the claim of the petitioners herein. In fact, the second respondent has averred in paragraph No.4 of the counter affidavit that the Corporation has not put up any compound wall in front of the said property and not removed any compound wall in between the property of the petitioners and Raj Bhavan as averred by the petitioners.

5. When such facts are disputed by the second respondent, such disputed questions of fact cannot be adjudicated under writ jurisdiction of this Court. Even otherwise, the entire writ petition and the averments contained in support of the writ petition would fall for consideration only before the competent Civil Court and not before the Writ Court exercising its jurisdiction under Article 226 of the Constitution of India. Therefore, it is open to the petitioners to approach the competent Civil Court in order to workout their rights and certainly not open to them to knock the doors of this Court by invoking writ jurisdiction of this Court to adjudicate the dispute of civil nature.

6. In view of the above, this Court finds that the writ petition is not maintainable and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gsk

To

1.The Secretary to Government of Tamil Nadu,
Public Works Department,
Fort St.George,
Chennai 600 009.

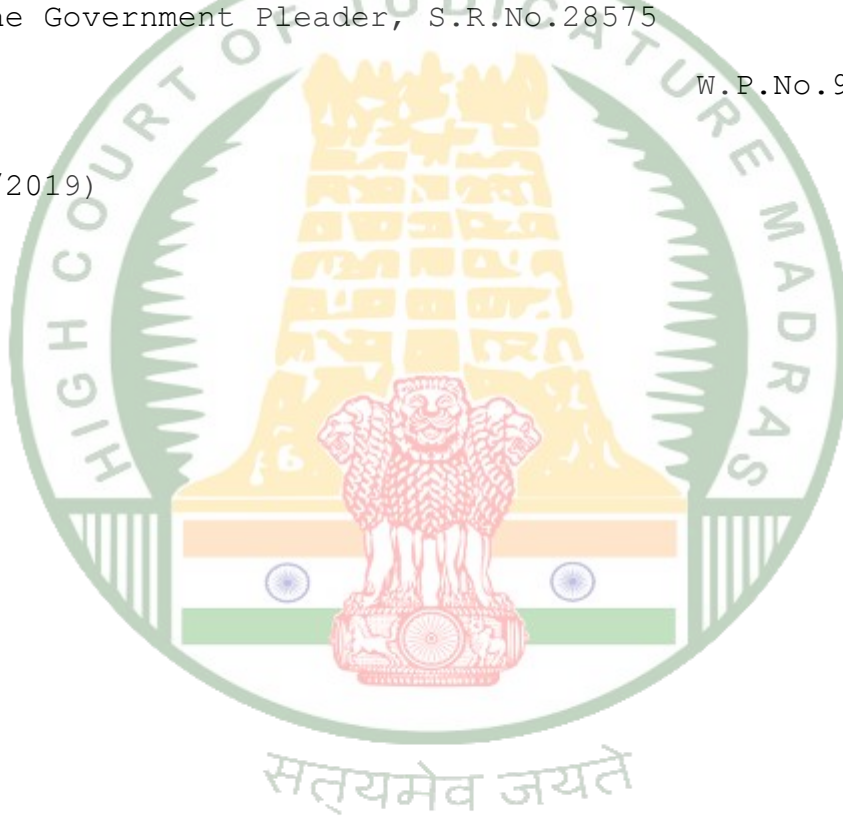
2.The Commissioner,
Corporation of Chennai,
Chennai 600 003.

+lcc to Mr.A.Muthukumar, Advocate, S.R.No.27839
+lcc to M/s.Karthikaa Ashok, Advocate, S.R.No.27832
+lcc to the Government Pleader, S.R.No.28575

W.P.No.9759 of 2011

KS (CO)

RRS (09/05/2019)



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