

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
AND
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.17927 of 2019

R.Thamodharan

.. Petitioner

Vs.

1. The Commissioner,
Greater Chennai Corporation,
Chennai 600 020.

2. The Chairman,
Chennai Metro Water Supply &
Sewerage Board (CMWSSB)
Chindadripet, Chennai -600 002.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, directing the respondents to ensure that proper bitumen road is laid in Ambedkar street (Extn), Ambedkar street, Pallikaranai, Chennai and to illuminate the said Ambedkar street (Extn) with street lamps adequately and also to provide Underground drainage system and to supply of water by the 2nd respondent, in a time bound manner.

For Petitioner : Mr.A.Mohamed Ismail

For Respondents : Mr.K.Soundararajan

O R D E R

(Order of the Court was made by S.MANIKUMAR, J.)

The petitioner has sought for a Mandamus, directing the respondents to ensure that proper bitumen road is laid in Ambedkar Street (Extn), Ambedkar street, Pallikaranai, Chennai and to illuminate the said Ambedkar street (Extn) with street lamps adequately and also to provide Underground drainage system and to supply of water by the Chairman, Chennai Metro Water Supply & Sewerage Board (CMWSSB), Chindadripet, Chennai, 2nd respondent, in a time bound manner.

2. It is the case of the petitioner that Ambedkar Street (Extension) in Pallikaranai falls in ward No. 189, zone 14 of the Greater Chennai Corporation and as such the first respondent is the statutory body to take care of the welfare and development of the residence of the said locality. In the said zone, running perpendicular to the Ambedkar street, there is a street called Ambedkar Street (Extn) and in the end of the Ambedkar street (Extn), there is a residential apartment holding about 20 house and few hundred people are living in the said Apartment. Using the said road by the residents of the Apartment, as well as general public has become a nightmare, since the road is kept in bad shape by the respondents and the entire stretch has no illumination in the dark hours, posing a serious threat and security concern for users of the said road. The respondents have taken all steps to lay the road and to illuminate the other parts of the locality but had consciously omitted to take care of this portion of the road leaving the uses of the road at lurch. In spite of the fact that locality was brought under the limits of the 1st respondent Corporation long back, necessary fundamental facilities are not made available. The 2nd respondent has not taken any steps to provide the much-needed underground drainage system and supply of water. Though repeated requests were made, the same were neglected.

3. It is the further case of the petitioner that several persons who are using the said road including the residents of Aariyan Apartment had been making repeated request to the respondents to lay bitumen road and to illuminate the street with street lamps but the respondents are least bothered to fulfil their genuine request made as early as in 2014. The residence of Ambedkar Street (Extn), Pallikaranai made a representation, dated 28.06.2014, wherein about 20 persons have signed the representation. However, there was little response. Thereafter, several representations were sent to the respondents with the same request on behalf of the Aariyan Apartment owners association. Last representation was on 16.04.2019, but again there has been no progress. Unless the respondents are directed to do the needful in a time bound manner, users of the Ambedkar Street (Ext) at Pallikamai, will be facing serious threat, as they are the vulnerable targets for anti-social elements, due to lack of proper road and illumination. Hence, the petitioner has filed this writ petition, by way of a Public Interest Litigation.

4. Per contra, the Commissioner, Greater Chennai Corporation, 1st respondent herein, has filed a counter affidavit and contended that right from the year 2015, there were several complaints from the residents, residing at Dr. Ambedkar Street Extension, about the stagnation of water and other drawbacks and, therefore, the Corporation Authorities tried to fill up the potholes by putting rubbish. At that time, one Mr. P. Veeramuthu

who is also residing at Ambedkar Street, prevented the authorities from putting rubbish, on the ground that the said land is a Patta land. He has also filed W.P.No.517 of 2017, seeking a direction to forbear the respondents from in any way disturbing the peaceful possession and enjoyment of the property of the comprised in Survey No.327/4 situated at Pallikkaranai Village, Ward No.189, Zone No.14 within Corporation of Chennai, Sholinganallur Taluk, Kancheepuram District. Immediately, the Corporation had addressed a letter, dated 09.01.2017 to the Tahsildar, Sholinganallur about the dispute and the Writ Petition filed by P.Veeramuthu in W.P.No.517 of 2017 and requested the Tahsildar to survey the disputed land and furnish a report to the Corporation. Thereafter, the said Writ Petition was disposed on 06.04.2017, with the following directions,

"4. In view of the aforesaid stand, the respondents 2 and 3, as the case may be, are directed to take appropriate action after due notice to the petitioner in pursuant to the reply, if any, to be given by the Tahsildar, Sholinganallur Taluk".

5. The 1st respondent has further submitted that thereafter, on 24.04.2017, a reminder letter has been addressed to the Tahsildar, Sholinganallur. Subsequently on 24.07.2017, a letter has been addressed to the District Revenue Officer, Kancheepuram, by enclosing the copy of the order passed by this Court and requested him to make necessary arrangements for surveying the property. Thereafter, District Revenue Officer, Kancheepuram, through his letter, dated 16.08.2017 directed the Tahsildar, Sholinganallur to survey the disputed land and send a report to the Corporation as well as to his office. Though reminder letters, dated 17.12.2018 & 14.06.2019 and 27.12.2018 & 07.02.2019 were sent to the Tahsildar, Sholinganallur and District Revenue Officer, Kancheepuram respectively, the disputed land was not surveyed by them. According to the first respondent, the said Ambedkar Street (Extn.) could not be maintained by the Corporation, as per the roadwar register maintained by the Corporation and the said Street does not find place in the register.

6. The 1st respondent has further submitted that after the Survey has been conducted by the Tahsildar, Sholinganallur and based upon the report given by him, necessary action would be taken and in view of the said impediment, the road, light and other amenities could not be provided at Ambedkar Street (Extn.) at present. Even the said P.Veeramuthu has put up a Notice Board at the entrance of the Ambedkar Street (Extn.) about the ownership of the property, by mentioning the Writ Petition filed before this Court and further informed that if anyone trespass into the property, action would be initiated against them in

accordance with law. In view of the above said facts, the disputed road could not be developed in spite of the fact that the surrounding areas are well maintained by the Corporation. Hence, the 1st respondent has prayed for dismissal of the writ petition.

7. From the above, it is evident that the dispute over the land is stated to be pending and hence, the road could not be developed. In such circumstances, mandamus cannot be issued. We only observe that order made in W.P.No.517 of 2017, dated 06.04.2017, to be implemented, if not done and thereafter, to proceed further.

8. In the result, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

skm/kpr

To

1. The Commissioner,
Greater Chennai Corporation,
Chennai 600 020.
2. The Chairman,
Chennai Metro Water Supply &
Sewerage Board (CMWSSB)
Chindadripet, Chennai -600 002.

+1 cc to Mr.K.Soundararajan, Advocate, S.R.No.55557

+1 cc to Mr.A.Mohamed Ismail, Advocate, S.R.No.54707

+1 cc to the Government Pleader, S.R.No.54898

NRL(CO)
SSM(10/09/2019)

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