

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2019

CORAM:

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

W.P.No.34422 of 2016
and
W.M.P.No.29653 of 2016

Mrs.R.Krishnammal .. Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai-600 003.
2. The Assistant Commissioner,
Zone 12, Corporation of Chennai,
Alandur, Chennai-600 016.
3. The Assistant Engineer,
Ward 162, Zone 12,
Corporation of Chennai,
Alandur, Chennai-600 016.
4. The District Collector,
Thiruvallur District Collector's Office,
Thiruvallur District.

5. Mr.M.Kesavan .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the Respondents 1 to 4 to process the Representations of the Petitioner and expedite necessary steps ensuring the restoration by the removal of obstruction or encroachment being made by the fifth respondent on the 24 Feet public road comprised in Survey No.458 of Alapakkam Village, Maduravoyal Taluk, Thiruvallur District, abutting the Petitioner's property bearing Door No.108-B, Metro Nagar, Chennai-600 116.

For Petitioner: Mr.N.Srikrishnan

For Respondents : Mr.V.C.Selvasekaran for RR-1 to 3

Mr.S.N.Parthasarathy, Govt. Advocate for R-4
No appearance for R-5

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 1 to 4 to process the Representations of the Petitioner and expedite necessary steps ensuring the restoration by the removal of obstruction or encroachment being made by the Fifth Respondent on the 24 Feet Public Road comprised in Survey No.458 of Alapakkam Village, Maduravoyal Taluk, Thiruvallur District, abutting the Petitioner's property bearing Door No.108-B, Metro Nagar, Chennai-600 116.

2. Heard the Learned Counsel for the Petitioner, the Learned Standing Counsel appearing for the Respondents 1 to 3 and the Learned Government Advocate appearing for the Fourth Respondent. Insofar the Fifth Respondent is concerned, the Court notice was served to him as early as on 08.10.2016, however, there is no representation on his side either in person or through a Counsel at the time of hearing the present Writ Petition. No counter affidavit is filed by the Respondents.

3. According to the Petitioner, she has purchased the vacant land comprised in Survey Nos.460/2A and 461/1A of Alapakkam Village, Metro Nagar, situate then at Ambattur Taluk, now at Maduravoyal Taluk, Thiruvallur District, measuring an extent of 1189-1/2 Sq.Ft., by means of Sale Deed, dated 05.04.2007 (Vide Document No.1991/2007). She raised a house property in the land by obtaining Planning Permit and Building Approval and is staying with her family in the same house, now bearing Door No.108-B, Metro Nagar, Alapakkam, Chennai-600 116, for the past nine years.

4. The stand of the Petitioner is that the Eastern side of her property to a vast extent, is owned by the Fifth Respondent herein. For the usage of the Public, there was a 24 Feet Road comprised in Survey No.458 on the Southern side of her property, leading from West to East and connected to the main Road, namely, Seventh Avenue of Metro Nagar. They used the said 24 Feet Road on the Southern side of her property and the Fifth Respondent's property for several years without any hindrance.

As a matter of fact, as per the Records of the Respondent Nos.1 to 4, it is a 'Public Road' used by the Public. However, in the month of December 2015, the Fifth Respondent had completely encroached the entire Public Road on the Southern side in front of his property under the guise of constructing outlet to direct the flood water. But he had constructed a Compound Wall on the entire Public Road illegally as a hurdle without considering the objections raised by the inhabitants.

5. It is further stated by the Petitioner that she had been to Madurai with her family and at that time, due to the unforeseen raining and flood, the normalcy was paralysed and when she returned from Madurai, she was shocked to find that the entire Road was obstructed by the Fifth Respondent and therefore, she approached the Fifth Respondent along with the local residents and made an endeavour to restore the Road for usage. The Fifth Respondent openly intimidated the Petitioner and the Common People by stating that the 'Public Road' is his own property and whoever objects, would be punished. Moreover, the Fifth Respondent had put up an iron gate abutting the Petitioner's property, thereby caused nuisance to all the residents by parking two-wheelers and four-wheelers on the middle of the Road, as it is also owned by him. The Rain Water and even the Drizzling Water got logged on the Road without proper drainage, which caused much hardship to the local residents. Thus, the stagnated water became health hazard.

6. The principal grievance of the Petitioner is that the Fifth Respondent is liable to remove the illegal construction put up by him and the Road is to be restored for public usage. Survey No.458 is referred as Government Land in the Adangal and other Revenue Records and also in the boundaries of all Sale Deeds and Title Deeds and it is shown as '24 Feet Road'. The Petitioner lodged complaint to the Respondents 1 and 2 and also to the local Councillor of Chennai Corporation on 29.01.2016, after waiting for a reasonable time and also making numerous representations. There was no fruitful action taken in this regard. Hence, the Petitioner sent a complaint on 21.02.2016 by Registered Post with Acknowledgement Due to the Respondent Nos.1 and 2 as well as to the Councillor of the Corporation of Chennai, which was received and acknowledged by them, but no action had been taken by the Respondent Nos.1 to 3 to remove the obstruction made by the Fifth Respondent on the 'Public Road'.

7. It is also stated by the Petitioner that on 18.07.2016, the Third Respondent/Assistant Engineer, Ward 162, Zone 12, Corporation of Chennai, Alandur, Chennai-600 016, called the Petitioner to attend for an Enquiry and when the Petitioner met the Third Respondent, she was given assurance that the obstruction made by the Fifth Respondent will be removed soon.

However, on the next day, the Third Respondent/Assistant Engineer, Ward 162, Zone 12, Corporation of Chennai, Alandur, Chennai-600 016, informed the Petitioner to lodge a complaint before the Fourth Respondent/District Collector, Thiruvallur District, as if the Fifth Respondent had claimed the "Public Road" as his "Patta Land".

8. Therefore, the Petitioner lodged a Complaint through Registered Post Acknowledgement Due to the Fourth Respondent for taking immediate action, since the 'Public Road' is being obstructed. The Fourth Respondent, after receipt of the said complaint, had not taken any action. The 24 Feet Road on the Southern side of the Petitioner's property, was maintained by the Respondent Nos.1 to 3 for several years and it was used largely by the Public to reach the Main Road on the Eastern side. Even in the old Revenue Records and Title Deeds, it was mentioned as "Vandi Pathai" / "Cart Pathway". The Petitioner finds it difficult for an 'Ingress and Egress' and for using the said Road on day-to-day basis, which is totally encroached by the Fifth Respondent. The Fifth Respondent is also making further encroachments on the Road by dumping construction materials such as sand, brick, grills, etc., which are to be prevented by taking necessary action in accordance with law. Since no tangible action has been taken by the Respondent Nos.1 to 4, the Petitioner has filed the present Writ Petition for the relief stated above.

9. Conversely, the Learned Standing Counsel for the Respondent Nos.1 to 3 brings it to the notice of this Court that in March 2017, the 'Encroachments'/obstructions made by the Fifth Respondent in the subject property, were removed by the Officials of the Greater Corporation of Chennai and that the 'Public Road' is put to use and that the Petitioner can make use of the said Road at her convenience.

10. In view of the submission made by the Learned Counsel appearing for the Respondent Nos.1 to 3 that the 'Encroachments'/obstructions in the subject property, were removed by the Officials of the Greater Chennai Corporation, this Court, recording the said fact, closes the present Writ Petition, as nothing further survives for adjudication. No costs. Consequently, W.M.P. is also closed.

Sd/-

Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

CS

To

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Thiruvallur District Collector's Office,
Thiruvallur District.

+lcc to Mr.S.Muthuraman, Advocate SR.No.1572

W.P.No.34422 of 2016

RK(CO)
GMY(29/01/2019)



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