

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2019

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.26650 of 2018 and

W.M.P.No.31047 of 2018

R.Mahalakshmi .. Petitioner

Vs.

1.The Commissioner,
Corporation of Greater Chennai,
Rippon Building,
Chennai - 600 003.

2.The Managing Director,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, Pumping Station Road,
Chennai - 600 002.

3.The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008.

4.R.Vajiravelu .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus directing the respondents 1 to 3 to remove fence or any other obstacles put up by the 4th respondent or his men on the Bharathiyar Street Extension, Pazhavanthangal, Chennai - 600 114 maintain and keep the road for the public to pass and repass.

For Petitioner : Mr.V.P.Rajendran

For Respondents : Mr.R.Arunmozhi (R1)

Mr.G.Janakiraman (R2) - no appearance

Mr.S.Thiruvengadam (R3)

Mrs.Selvi George (R4)

O R D E R

(Order of the Court made by the Hon'ble Chief Justice
and M.Duraiswamy, J.)

The petitioner has filed the above Writ Petition to issue a Writ of mandamus to direct the respondents 1 to 3 to remove fence put up by the 4th respondent or his men on the Bharathiyar Street Extension, Pazhavanthangal, Chennai and maintain the same as a public road.

2.It is the case of the petitioner that her husband R.Raman purchased the vacant land measuring an extent of 2,751 sq.ft bearing New Door No.13/5, Bharathiyar Street Extension, Pazhavanthangal, Chennai, under a registered Sale Deed dated 29.05.1980. The petitioner also put up construction after getting approval from the authorities. Further, it is the case of the petitioner that the 4th respondent put up fencing where the sewerage channel is placed by the petitioner and now there is blockage of sewerage channel.

3.The 4th respondent filed a counter wherein he has stated that he purchased the property bearing Old Door No.12, Bharathiyar Street Extension, Pazhavanthangal, Chennai measuring an extent of 3608 sq.ft. under a registered Sale Deed dated 06.05.1981.

4.The learned counsel appearing for the 3rd respondent - CMDA produced a lay-out plan wherein it has been specifically mentioned that the 4th respondent's property measures 51.3 feet on the Southern side, 27 feet on the Northern side, 88 feet on the Eastern side and 90 feet (70 feet + 20 feet) on the Western side. The measurements found in the approved lay-out plan correlate with the measurements found in the 4th respondent's Sale Deed dated 06.05.1981.

5.The petitioner claimed right in respect of the property, which was not purchased by her under the Sale Deed dated 29.05.1980. That apart, the 4th respondent has also stated that the petitioner has already filed a Civil Suit in O.S.No.33 of 2018 on the file of the District Munsif Court, Alandur for declaration and for other reliefs and she was unable to get any interim order in the said suit.

6.When the prayer sought for in the suit and in the present Writ Petition are identical, the petitioner should not have filed the present Writ Petition. The petitioner having opted for the alternate remedy, she cannot file the Writ Petition under Article 226 of the Constitution of India. The petitioner can

establish her right over the property in dispute only before the Civil Court.

7.In these circumstances, the Writ Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

va

To

- 1.The Commissioner,
Corporation of Greater Chennai,
Rippon Building,
Chennai - 600 003.
- 2.The Managing Director,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, Pumping Station Road,
Chennai - 600 002.
- 3.The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008.

+1 cc to Mr.R.Arunmozhi, Advocate Sr.No.14679
+1 cc to Mrs.Selvi George, Advocate Sr.No.14004
+1 cc to Mr.S.Thiruvengadam, Advocate Sr.No.13999

W.P.No.26650 of 2018 and
W.M.P.No.31047 of 2018

VBA (CO)
CSL/07.03.2019

WEB COPY