

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 17.02.2020

Orders Pronounced on : 27.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH  
AND  
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.Nos.6027 and 4419 of 2019  
and  
W.M.P.No.6855 of 2019

T.Vijayakumar

... Petitioner in W.P.No.6027 of 2019

M.Rajasekar

... Petitioner in W.P.No.4419 of 2019

Vs.

1. The Member Secretary,  
Chennai Metropolitan Development Authority,  
Gandhi Irwin Road,  
Chennai-600 008.
2. The Commissioner,  
Kundrathur Panchayat Union,  
@ Padappai-601 301.
3. The District Collector,  
Kancheepuram District,  
Office of the District Collector,  
Kancheepuram-631 501.
4. The Commissioner of Police,  
Greater Chennai,  
Office of the Commissioner of Police,  
Vepery, Chennai-600 007.
5. The Tahsildar,  
Pallavaram Taluk,  
Office of the Tahsildar @ Chrompet,  
Chennai-600 044.

6. The Special Officer (Block Development Officer),  
Gerugambakkam Panchayat,  
Kundrathur Panchayat Union,  
Chennai-600 122.

7. The Inspector of Police,  
T-14, Mangadu Police Station,  
Mangadu-600 122.

8. M.Rajasekaran

.. Respondents in W.P.No.6027 of 2019

1. The Member Secretary,  
Chennai Metropolitan Development Authority (CMDA),  
Gandhi Irwin Road,  
Egmore, Chennai.

2. The Principal Secretary to Govt of TN,  
Department of Urban and Housing,  
St.George Fort, Chennai.

3. The District Collector,  
Kanchipuram District,  
Kanchipuram.

4. The Commissioner,  
Kunrathur/Padappai Panchayat Union,  
Kanchipuram District.

5. T.Vijayakumar

.. Respondents in W.P.No.4419 of 2019

Writ Petition No.6027 of 2019 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondent authorities 1 to 7 to demolish and remove the illegally constructed compound wall blocking petitioner's access to the existing public roads in Survey Nos.30 and 24, in Gerugambakkam Village, Kundrathur Panchayat Union, Pallavaram Taluk, Kancheepuram District and enable the petitioner to connect the gifted public roads in S.No.29 to the existing public roads in S.Nos.30 and 24 and provide a thoroughfare to the public roads for the petitioner's property in Survey No.29, in Gerugambakkam Village, Kundrathur Panchayat

Union, Pallavaram Taluk, Kancheepuram District and consequently direct the fourth and seventh respondents to prosecute the eighth respondent, within a time to be fixed by this Court.

Writ Petition No.4419 of 2019 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the first respondent to cancel his planning permit No.11580(PPD/LO No.49/2018 & file No.L1/3527/2015, dated 31.07.2018 in favour of the sixth respondent.

For petitioners : Mr.S.Venkatesh in W.P.No.6027 of 2019  
Dr.G.Babu in W.P.No.4419 of 2019  
For respondents : Mr.P.S.Ganesh for R-1 in both W.Ps.  
Mr.V.Jayaprakash Narayanan for R-6 in  
W.P.6027 of 2019  
Mr.V.Shanmuga Sundar, Spl.G.P. For  
RR-2 to 5 and 7 in  
W.P.No.6027 of 2019 and for RR-2 to 5 in  
W.P.No.4419 of 2019  
Dr.G.Babu for R-8 in W.P.No.6027 of 2019  
Mr.S.Venkatesh for R-6 in W.P.No.4419 of 2019

COMMON ORDER

R.SUBBIAH, J

Writ Petition No.6027 of 2019 is filed praying for issuance of a Writ of Mandamus to direct the respondent- authorities 1 to 7 to demolish and remove the illegally constructed compound wall blocking petitioner's access to the existing public roads in Survey Nos.30 and 24 in Gerugambakkam Village, Kundrathur Panchayat Union, Pallavaram Taluk, Kancheepuram District and enable the petitioner to connect the gifted public roads in S.No.29 to the existing public roads in S.Nos.30 and 24 and provide a thoroughfare to the public roads for the petitioner's property in Survey No.29, in Gerugambakkam Village, Kundrathur Panchayat Union, Pallavaram Taluk, Kancheepuram District and consequently direct the fourth and seventh respondents to prosecute the eighth respondent, within a time to be fixed by this Court.

2. Writ Petition No.4419 of 2019 is filed praying for issuance of a Writ of Mandamus to direct the first respondent to cancel the planning permit No.11580(PPD/LO No.49/2018 & file No.L1/3527/2015, dated 31.07.2018 granted in favour of the sixth respondent.

3. Though very many contentions have been raised in both the Writ Petitions, ultimately, in W.P.No.6027 of 2019, the prayer

itself is explicitly clear and hence, we are not traversing into the averments made in the affidavit therein. However, the planning permit granted in favour of the sixth respondent is being challenged in W.P.No.4419 of 2019. The sixth respondent in W.P.No.4419 of 2019 is the writ petitioner in W.P.No.6027 of 2019.

4. The official respondents and other respondents have filed respective counter affidavits disputing the allegations of the respective petitioners.

5. W.P.No.4419 of 2019: As against the planning permit dated 31.07.2018 granted in favour of the sixth respondent-T.Vijayakumar, the petitioner-M.Rajasekar is having alternative remedy by way of filing appeal before the concerned authority. Therefore, it is for him to work out his remedy before the appellate authority. Hence, this Court is not inclined to grant the relief sought for by the petitioner in W.P.No.4419 of 2019, which is accordingly dismissed. No costs.

6. W.P.No.6027 of 2019: It is the contention of the petitioner-T.Vijayakumar in this Writ Petition that the eighth respondent herein (petitioner-M.Rajasekar in W.P.No.4419 of 2019) had put up illegal construction by constructing a compound wall in the border of the petitioner's land in S.No.29 so as to block access to the existing approach roads in S.Nos.24 and 30. But it is the submission of the learned counsel for the official respondents that the eighth respondent had put up the construction only in his patta land and hence, they prayed for dismissal of the Writ Petition. We are of the opinion that this Court cannot traverse into the disputed questions of fact in the Writ Petition as to whether the land in question is patta land or public land. It is for the petitioner in W.P.No.6027 of 2019 to work out his remedy only before the Civil Court by initiating appropriate civil proceedings. With these observations, W.P.No.6027 of 2019 is dismissed. No costs. Consequently, W.M.P. is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

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9. The Commissioner,  
Kunrathur/Padappai Panchayat Union,  
Kanchipuram District.

+2cc to Mr.T.Vijaya Kumar, Advocate sr.17254

+2cc to Mr.T.Vijaya Kumar, Advocate sr.17253.(05/03/2020)

Common Order in  
W.P.Nos.6027 and 4419 of 2019

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