

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 12.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.No.6295/2021 & WMP.No.6915/2021

B.V.Sureshkumar

.. Petitioner

Versus

- 1.The Commissioner
Greater Chennai Corporation
Rippon Buildings
Chennai 600 003.
- 2.The Deputy Commissioner [North]
Greater Chennai Corporation
Zone-5, No.6, Basin Bridge Road,
Chennai 600 021.
- 3.The Zonal Officer
Greater Chennai Corporation
Zone-5, Ward-56
No.6, Basin Bridge Road
Chennai 600 079.
- 4.The Superintendent
Parks Department
Greater Chennai Corporation
Amma Maligai, Rippon Buildings Campus
Chennai 600 003.
- 5.The Commissioner of Police
Greater Chennai, Vepery,
Chennai 600 007.
- 6.The Deputy Police Commissioner [North]
Harbour Range, 2nd Line Beach
Rajaji Salai, Chennai 600 001.
- 7.The Tahsildar
Purasawalkkam Taluk
Chennai 600 003.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the orders passed by the 7th respondent in Na.Ra.NO.AI/072/2021 dated 17.02.2021 and consequential

order passed by the 3rd respondent in Z.O.V.C.No.27/2020 dated 19.02.2021 and quash the same and further direct the respondents 1 to 4 and 7 to remove the encroachments made in public road Meeran Labbai Street and to direct to demolish the compound wall post and the wall erected on the western side of the Ashiravadapuram play ground.

For Petitioner : Mr.R.Sathyamurthy

For RR 1 to 4 : Mr.R.Gopinath
Standing counsel

For RR 5 to 7 : Mr.S.Kamalesh Kannan
Government Advocate

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

- (1) By consent, the writ petition is taken up for final disposal and is disposed of by this order.
- (2) Mr.R.Gopinath, learned Standing counsel appears on behalf of respondents 1 to 4 and Mr.S.Kamalesh Kannan, learned Government Advocate accepts notice on behalf of respondents 5 to 7.
- (3) The petitioner is a resident of Old Door NO.202, New No.52, Broadway, Chennai-108 and he, on an earlier occasion, filed WP.No.20322/2020, against the respondents praying for issuance of a writ of mandamus, forbearing them from encroaching upon the public road, viz., Meeran Labbai Street, in the form of construction of a compound wall on the Eastern and Western side of Ashiravadapuram Playground and maintenance of status quo that existed prior to the demolition of the compound wall in terms of the revenue records and Field Map in S.No.2237 of Meeran Labbai Street, Chennai. The said writ petition came to be disposed of with a direction, directing the 2nd respondent, viz., the Deputy Commissioner [North], of Greater Chennai Corporation, to deal with the said representation by a speaking order and in the event of encroachment being found, steps to be taken for removal of such encroachment and appropriate reply is to be given to the petitioner so as to enable him to pursue further remedies. Accordingly, the District Revenue Officer, Zone-V, attached to the Greater Chennai Corporation as well as the 4th respondent, sent communications dated 04.01.2021 and 12.01.2021 respectively to the 7th respondent for survey and measurement of the area in question and accordingly, it was done on 15.02.2021. The 7th respondent, concluded after survey and inspection that on account of the compound wall around

the Ashirvadapuram Playground, no encroachment had been caused and also enclosed the sketch. The 3rd respondent also sent a communication on 19.02.2021, pointing out the result of the inspection caused by the 7th respondent and further indicated that if the petitioner is having any objection with regard to the report of the 7th respondent, he was directed to approach the said official for further clarification. Challenging the legality of the orders dated 17.02.2021 and 19.02.2021 on the file of the respondents 7 and 3 respectively, the present writ petition is filed.

- (4) The learned counsel for the petitioner has drawn the attention of this Court to the photographs and would submit that originally the compound wall of the Ashirvadhapuram Playground was in existence and by encroaching upon the public road, a new compound wall is being put up by demolishing the old compound wall and he would further submit that the street is also narrowed down on account of very many encroachments and that apart, very many schools and places wherein public used to throng, also located and since the Greater Chennai Corporation under the garb of construction of the compound wall, has encroached upon the public road and hence, prays for appropriate orders.
- (5) Per contra, Mr. R. Gopinath, learned Standing counsel who appears on behalf of respondents 1 to 4 on instructions, would submit that the survey and inspection has been done at the request of respondents 3 and 4 by the 7th respondent and the result of the same had revealed no encroachments in the form of construction of a new compound wall by the Corporation of Chennai and in fact, the petitioner has also been communicated as to the said decision by the 3rd respondent by granting liberty to the petitioner seeking clarification in this regard before the 7th respondent and hence, prays for dismissal of this writ petition.
- (6) This Court has considered the rival submissions and also perused the materials placed before it.
- (7) The 7th respondent, in pursuant to the request made by respondents 3 and 4 vide their communications dated 04.01.2021 and 12.01.2021 respectively, had caused inspection of the on-going construction of the compound wall and having found that the result of the survey and inspection did not show any encroachment on the part of the Greater Corporation of Chennai, by putting up a new compound wall, has informed the same to the 4th respondent, with a copy marked to the 3rd respondent. The 3rd respondent, in turn, had sent a communication dated 19.02.2021 pointing out the result of the inspection and also informed the petitioner that if he is having any objections with regard to the said report of the 7th respondent, he is always at liberty to move the said official for further clarification.

(8) This Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, cannot declare that the result of the survey and inspection caused by the 7th respondent in discharging of his duties as unsustainable and it is also to be noted at this juncture that the 7th respondent has no axe to grind against the petitioner herein. The fact remains that after survey and inspection, the jurisdictional official, viz., the 7th respondent, has concluded that on account of the construction of the new compound wall, covering Ashirvadapuram Playground, Chennai-1, no encroachment has been caused upon the public road and the 3rd respondent in turn, also informed the same to the petitioner with a liberty to move the 7th respondent for further clarification. Thus, the report of the 7th respondent, prima facie would disclose that no encroachment has been caused by the Greater Corporation of Chennai/4th respondent.

(9) In the light of the above facts and circumstances and the reasons assigned above, this Court finds no merit in this writ petition. Accordingly, the writ petition stands dismissed. However, in the light of the communication of the 3rd respondent dated 19.02.2021, the petitioner is at liberty to move the 7th respondent for seeking clarification, in the light of the survey and measurement done. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

AP
To

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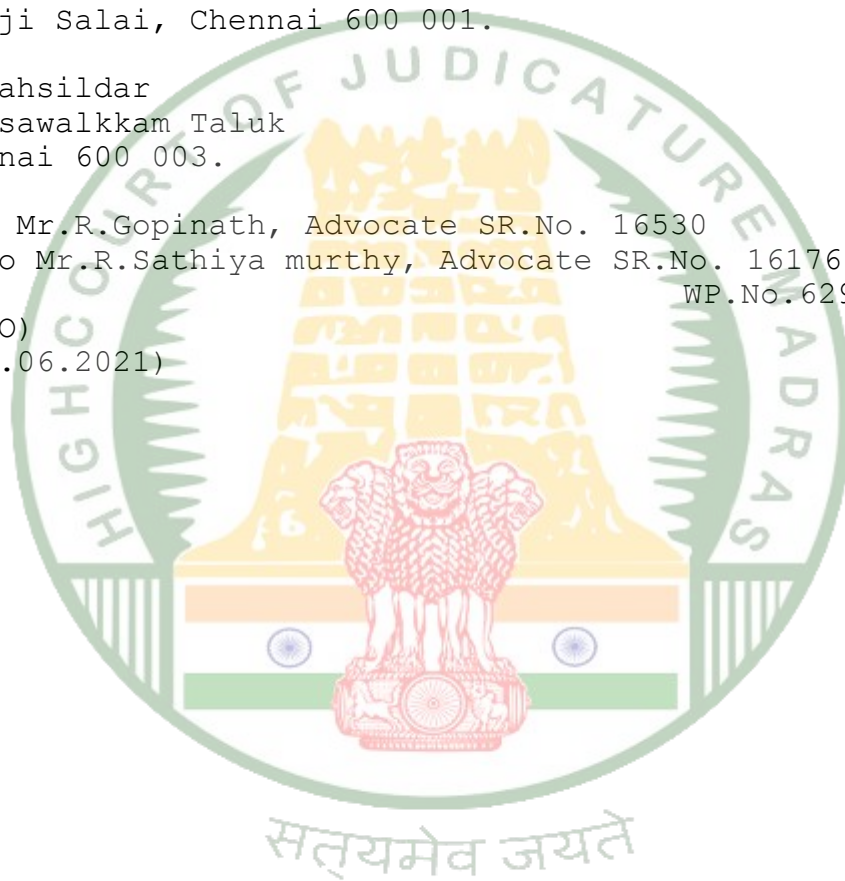
+1cc to Mr.R.Gopinath, Advocate SR.No. 16530

+2ccs to Mr.R.Sathiya murthy, Advocate SR.No. 16176

WP.No.6295/2021

GPL (CO)

A.SK(16.06.2021)



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