

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.27469 of 2016
and
M.P.No.23663 of 2016

D.Prema (alias) Ross

... Petitioner

Vs.

1.The Chief Executive Office,
Cantonment Board,
St.Thomas Mount-cum-Pallavaram,
Chennai - 600 016.

2.The Tahsildar,
Alandur, Chennai.

(R2 is suo-motu impleaded as per
order dated 19.10.2016)

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, forbearing the respondent from in any manner interfering with the peaceful possession and enjoyment of the petitioner's property situate at Survey No.78/2, measuring to an extent of 927.5 Sq.feet at No.12/51, Madakoil 2nd Street, Mariyapuram, Nandambakkam Village, Alandur Taluk, Kancheepuram District, from being interfered with by any of its Subordinate Official from in any manner, demolishing the compound wall situated therein on the basis of representation dated 25.07.2016.

For Petitioner : Mr.L.Chandrakumar
For Respondents : M/s.A.Rexy Josephine Mary for
M/s.King and Partridge for R1
Mr.D.Ilayaraja
Government Advocate for R2

O R D E R

The petitioner has filed a present writ petition for a writ of mandamus to forbear the respondent from in any manner interfering with the peaceful possession and enjoyment of the petitioner's property situate at Survey No.78/2, measuring to an

extent of 927.5 sq feet at No.12/51, Madakoil 2nd Street, Mariyapuram, Nandambakkam Village, Alandur Taluk, Kancheepuram District, from being interfered with by any of its Subordinate Official from in any manner, demolishing the compound wall situated therein on the bases of representation dated 25.07.2016.

2. During the pendency of the writ petition by suo motu order dated 19.10.2016, the second respondent, Tahsildar, Alandur was impleaded. The second respondent and the officer of the first respondent were directed to survey the property of the petitioner as well as the surrounding property to find out and identify the petitioner's property and its extent. The second respondent was directed to fix the boundaries of the petitioner's property as well as the surrounding property and file a report along with the sketch.

3. The report filed by the first respondent, indicates that an extent of 927.5 sq ft of land belonging to the first respondent was encroached by the petitioner. Since correctness or otherwise of the said report cannot be decided in a writ proceeding and it being a triable issue on facts, it is better left to the Civil Court to decide the dispute. Therefore, I am not inclined to entertain the present writ petition. Therefore, I give liberty to the petitioner to approach a Civil Court within a period of 30 days from the date of receipt of a copy of this order. The respondent shall maintain status quo for a period of 60 days. All further action of the respondent shall be subject to order to be passed by such Court. If no protection is granted by such Court, the respondents are at liberty to proceed against the petitioner in accordance with law.

4. Writ petition stands dismissed by the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

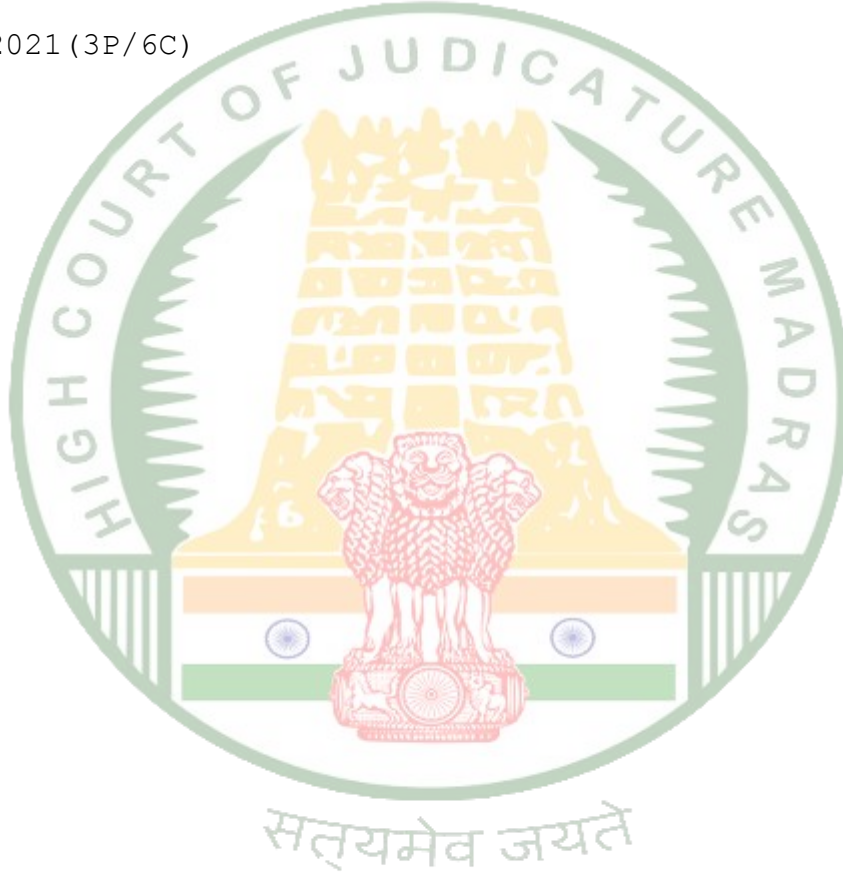
1. The Chief Executive Office,
Cantonment Board, St. Thomas Mount-cum-Pallavaram,
Chennai - 600 016.

2.The Tahsildar,
Alandur, Chennai.

+1 cc to Mr.King and Partridge, Advocate Sr No.7994
+1 cc to Government Pleader Sr No.8046
+1 cc to Mr.L.Chandrakumar,Advocate Sr No.7796

W.P.No.27469 of 2016
and
M.P.No.23663 of 2016
11.02.2021

K.V. (CO)
RG.26.04.2021 (3P/6C)



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