



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.P. No. 13627 of 2021
and
W.M.P. No. 14490 of 2021

D.Dwaragesh

... Petitioner

Vs.

1. The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai - 600 003.
2. The Zonal Officer
Zone-5, Corporation of Chennai
Old Washermenpet, Chennai - 600 021.
3. The Assistant Revenue Officer
Zone-5, Corporation of Chennai
Old Washermenpet, Chennai - 600 021.
4. M/s. Jeans Park
Rep. by its Managing Director
Tameen Ansari @ Sankar Ganesh
No.50/4, M.C.Road, Ground Floor
Lakshmi Kalyan Complex
Old Washermenpet, Chennai - 600 021.
5. The Inspector of Police
H1 Police Station
No.28, T.H.Road
Old Washermenpet
Chennai - 600 021.
[R5 suo motu impleaded
by this Court on 02.08.2021]

... Respondents

PRAYER : Petition filed under Section Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the Respondent authorities 1 to 3 to restrain the Fourth Respondent, from making encroachment all along the public platform outside his shop at No.50/4, M.C.Road, Ground Floor, Lakshmi Kalyan Complex, Old Washermenpet, Chennai - 600 021 based on Petitioner's representation dated 14.06.2021.



WEB COPY

For Petitioner : Ms. S.Ambigai

For Respondents: Mr. R.Gopinath (For R1 to R3)
Mr. M.Vijayakumar (For R4)
Mr. P.Balathandayutham
Government Advocate (For R5)

ORDER

(Order of the Court was passed by N.KIRUBAKARAN, J)

The matter was heard through ''Video Conference''.

2. The Petitioner is the owner of commercial building, bearing Door No.50/4, M.C.Road, Ground Floor, Lakshmi Kalyan Complex, Old Washermenpet, Chennai - 600 021, consisting of 16 shops. The Fourth Respondent is one of the tenants in the subject property, who occupies the entrance of the building and extended his shop upto platform of M.C.Road by way of displaying his goods and articles thereby causing nuisance not only to general public but also to other other tenants of the subject property. Therefore, the Petitioner gave a representation dated 20.07.2019 and thereafter, filed a Writ Petition in W.P. No. 23791 of 2019, which was disposed on 12.02.2021 recording that the representation has been considered and encroachment has been removed.

3. Although action has been taken and encroachment has been removed, again the Fourth Respondent encroached upon the pathway/entrance of the subject property and platform of M.C. Road causing nuisance not only to the general public but also to the other occupants /tenants of the subject property, which owned by the Petitioner. Therefore, the Petitioner made another representation on 14.06.2021 to the Official Respondent. Since no action has been taken, the Petitioner has come before this Court.

4. Heard Ms. S.Ambigai, Learned Counsel for the Petitioner, Mr. R.Gopinath, Learned Counsel appearing for the First to Third Respondents, Mr. M.Vijayakumar, Learned Counsel appearing for the Fourth Respondent, Mr. P.Balathandayutham, Learned State Government Counsel appearing for the newly impleaded Fifth Respondent, and perused the materials placed on record.

5. Ms. S.Ambigai, Learned Counsel for the Petitioner very strenuously argue that it is the usual practise of the Fourth Respondent to encroach upon the pathway as causing nuisance to the general public as well as the occupants of the subject property. Even after the removal of the encroachments pursuant to the filing of the earlier writ petition filed, again the Fourth Respondent has encroached upon the same



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channel/bridge would not be tolerated. In view of that, this Court suo motu impleads the Inspector of Police, H1 Police Station, No.28, T.H.Road, Old Washermenpet, Chennai - 600 021 as Fifth Respondent in this Writ Petition and Mr. P.Balathandayutham, Learned State Government Counsel takes notice on behalf of the newly impleaded Fifth Respondent. It is made clear that not only at the instance of the Corporation Officials, but also at the instance of persons, who are aggrieved by any encroachment, a complaint under Section 431 of the Indian Penal Code can be given to jurisdictional Police, who in turn would take appropriate action on such complaint.

10. With the above directions, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

Maya

To

1. The Commissioner
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Chennai - 600 003.
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4. The Inspector of Police
H1 Police Station
No.28, T.H.Road
Old Washermenpet
Chennai - 600 021.

+1cc to Mr.Vijaya kumar , Advocate SR.No. 38111
+1cc to Mr.R.Gopinath, Advocate SR.No. 37451
+1 cc to Government Pleader Sr.No. 37707

W.P. No. 13627 of 2021

(CO)

A.SK(20.09.2021)