



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.No.15385 of 2018
and
W.M.P.No.21595 of 2021

A.Mukundan

...Petitioner

Vs.

1.The Contonment Board,
St.Thomas Mount-cum-Pallavaram,
Represented by its,
The Chief Executive Officer/Member Secretary,
North Parade Road, St.Thomas Mount,
Chennai - 600 016.

2.The Tahsildar,
Alandur Taluk,
14, Diary Farm Road, St. Thomas Mount,
Near Alandur Court, Chennai 600 061.

3.Mrs.Malathi
4.Mr.Maran
5.Mr.Devan

6.The Defence Estate Officer, (Madras Circle),
No.306, Anna Salai, Teynampet,
Chennai - 600 018.

(R6 impleaded vide order dated 16.04.2021 made in
WMP.No.22604/2018 in W.P.No.15385 of 2018 by NKKJ and TVTSJ)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 1st and 2nd respondent to initiate appropriate action under Section 252 of the Cantonment Act, 2006 and the regulations thereon, to remove the encroachments, structures raised by the respondents 3, 4 and 5 at "Harbour Line 20 feet Road, St.Anthony's Church Cross Street" having a length of 100 mtrs and thereabouts and a breadth of 5 feet and to maintain the sanctity of the road to make hassle free ingress and egress through the Thirusulam Road and the Harbour Line Road as a through fare.



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For petitioner : Mr.P.G.Thiyagu
For respondents : Mr.C.Mohan
for King and Patridge for R1
Mr.T.N.C.Kaushik
Govt. Advocate for R2
Mr.Amar D.Pandiyan for R4
Mr.G.Ilangovan for R6
No Appearance for R3 and R5

ORDER

(Order of the Court was made by K.KALYANASUNDARAM, J)

This Writ Petition is filed seeking to issue a Writ of Mandamus directing the respondents 1 and 2 to initiate appropriate action under Section 252 of the Cantonment Act, 2006, to remove the encroachment made by the 3, 4 and 5 at "Harbour Line 20 feet Road, St.Anthony's Church Cross Street.

2. Mr.C.Mohan, learned counsel appearing for the 1st respondent and Mr.G.Ilangovan, learned Standing Counsel appearing for the 6th respondent would state that based on the representation of the petitioner, the officials conducted a joint survey and found encroachment in the Harbour Line 20 feet Road, St.Anthony's Church Cross Street. The learned counsel relying upon the order passed in W.P.No.14244 of 2016, dated 13.04.2017, seeks directions to the police authority to provide necessary assistance at the time of removal of encroachment.

3. The learned counsel appearing for the private respondents would submit that the petitioner has already approached the Civil Court and the suit instituted by him is pending since 2017, hence, the petitioner has to workout his remedy before the Civil Court and the present writ petition is not maintainable.

4. We are unable to agree with the submission of the learned counsel appearing for the private respondents. In the instant case, it is not in dispute that the petitioner seeks removal of encroachment in the public road. According to the learned counsel appearing for the respondents 1 and 6, in a joint survey conducted by them, encroachment made in the public road was found and they have initiated proceedings to remove the encroachment.

5.It is informed that encroachments have been made in two places, one under the jurisdiction of the 1st respondent and another under the jurisdiction of 6th respondent.

6.In the light of the above fact, we hereby direct the



respondents 1 and 2 to take appropriate action in accordance with law, after providing ample opportunity to all the necessary parties. At the time of removal of encroachment, **(*)the Deputy Commissioner, St.Thomas Mount District Police** shall render necessary assistance to the respondents 1 and 6 for eviction in terms of Section 315 of the Cantonments Act 2006. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

7. With the above direction, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

s/d-
Assistant Registrar(CS-VII)
(28/10/2021)

**(*) Corrected as per order dated 29.10.2021
made in W.P.No.15385 of 2021**

s/d-
Sub-Assistant Registrar(CS VII)
(16/11/2021)

//True Copy//

Sub Assistant Registrar

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To

1.The Contonment Board,
St.Thomas Mount-cum-Pallavaram,
Represented by its,
The Chief Executive Officer/Member Secretary,
North Parade Road,
St.Thomas Mount,
Chennai - 600 016.

2.The Tahsildar,
Alandur Taluk,
14, Diary Farm Road,
St. Thomas Mount,
Near Alandur Court,
Chennai 600 061.

3.The Defence Estate Officer, (Madras Circle),
No.306, Anna Salai,
Teynampet,Chennai - 600 018.

**To be Substitute
the order already
despatch on
12.10.2021**



4. (*) **The Deputy Commissioner,
St. Thomas Mount District Police**

+1 CC to Mr. G. Ilangovan, Advocate sr **57050**.

+1 CC to Mr. P. G. Thiyagu, Advocate sr 52228

+1 CC to M/s. Amar D. Pandiya, Advocate sr 52879

+1 CC to M/s. King and Partridge, Advocate sr **56126**.

W.P.No.15385 of 2018

SJ (CO)
SP (28/10/2021)

MG (CO)
RGA (17/11/2021)