

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2021

CORAM:

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P. No. 1859 of 2018

and

W.M.P. No. 2306 of 2018

T.Arjunan,
s/o.Thulukkanam

...Petitioner

Vs

1. The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai.
2. The Assistant Commissioner cum Zonal Officer,
Zonal Office No.13,
Greater Chennai Corporation,
Lattice Bridge Road,
Adyar, Chennai - 600 020.
3. Executive Engineer,
Zonal Office No.13,
Greater Chennai Corporation,
Lattice Bridge Road,
Adyar, Chennai - 600 020.
4. The Assistant Engineer,
Division Office No.182,
Greater Chennai Corporation,
West Kamarajar Nagar,
Thiruvanmiyur, Chennai - 600 041.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents or his men agent servants or any other persons from in any manner denying ingress and egress from the petitioner premises and not to fence the public road in TS No.184.

For Petitioner : Mr.E.D.Sethupathi

For Respondents : Ms.Karthikaa Ashok
Senior Standing Counsel

ORDER

The petitioner has filed this writ petition for a Mandamus to forbear the respondents or his men or agents or any other persons denying the ingress and egress from the petitioner's premises and not to fence the public road in T.S.No.184.

2. The dispute in the present writ petition has arisen on account of an earlier writ petition filed by one M.Kirubakaran in W.P.No.23789 of 2014, which came to be disposed by an order dated 10.11.2017. In the said writ petition, the petitioner was arrayed as 5th respondent. The aforesaid writ petition was disposed with the following observations:-

"The Petitioner has come forward with this petition directing the respondents 1 to 4 from not allowing the 5th respondent in proceeding with the digging of Well and construction in Town Survey, No.184, Block No.41, Thiruvanmiyur Village.

2. The case of the petitioner is that the land in Survey No.184, Block No.41, Thiruvanmiyur Village had contained a Well and during the course of time, the Well formed part of public street. The 5th respondent has now purchased a land adjacent to the Well and started digging Well in the public place. Hence, the petitioner has come forward with the writ petition for the relief stated supra.

3. It is the represented by the learned counsel for the 4th respondent that the encroachment in the land in question has been removed.

4. Taking note of the above submission of the 4th respondent, the respondents 1 to 4 shall ensure that there is no further encroachment in the land in question and it has to be properly safeguarded, and if required, fencing shall be made.

5. The writ petition is disposed of with the above observation. No costs. Consequently, connected miscellaneous petition is closed."

3. It is the case of the petitioner that respondents/Chennai Corporation has attempted to put up a wall in the land bearing T.S.No.184 and therefore access to the petitioner's property will be hampered. The respondents/Chennai Corporation on the other hand submits that the property is Natham Poramboke

property and it is pursuant to the order passed in W.P.No.23789 of 2014, the Tahsildar had caused a survey of the land and has given report as per which the petitioner has no rights over the land. This Court cannot decide the private rights of the petitioner over the land as several disputed questions of facts arise for consideration. Therefore, I am inclined to protect the interest of the petitioner for a period of three months from the date of receipt of a copy of this order.

4. The petitioner may to approach a Civil Court of appropriate jurisdiction within such time and obtain further orders to protect its interest, if any. In case the petitioner fails to obtain any interim order within such time, the respondents/Chennai Corporation are at liberty to proceed against the petitioner and the property in the manner known of law. Therefore, there shall be an order of status quo for a period of three months.

5. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

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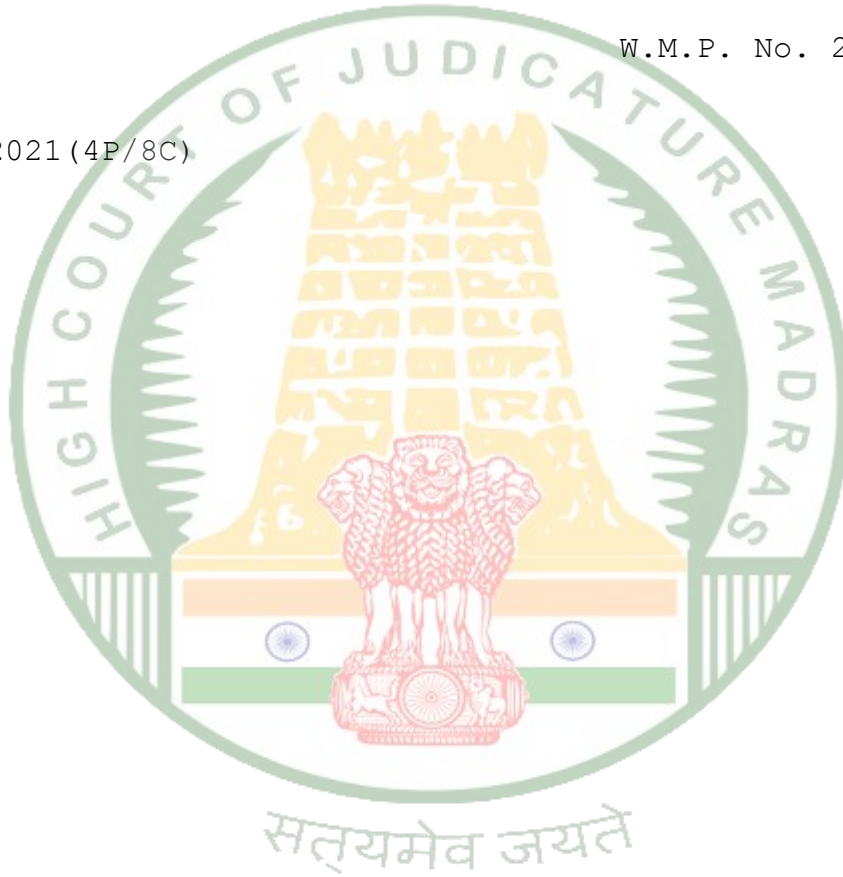
4. The Assistant Engineer,
Division Office No.182,
Greater Chennai Corporation,
West Kamarajar Nagar,
Thiruvanmiyur, Chennai - 600 041.

+2 cc to Mr. E.D.Sethupathi, Advocate Sr No.20899

+1 cc to Ms.Karthikaa Ashok, Advocate Sr No.20492

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29.03.2021

GPL (CO)
RG.23.04.2021 (4P/8C)



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