



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2021

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESEVALU

W.P.No.26051 of 2019

R.Bharathi

...Petitioner

vs

1.The District Collector,
No. 62, Rajaji Salai,
Chennai - 600 001.

2.The Revenue Divisional Officer,
Guindy, Chennai - 600 032.

3.The Chennai Corporation,
No. 3, Reddy Street,
Guindy Industrial Estate,
Guindy, Chennai - 600 032.

4.Tamil Nadu Small Industries Development
Corporation Limited (SIDCO),
Rep. by its Project Officer,
Guindy Branch,
Guindy, Chennai - 600 032.

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus to direct the first to third respondents to remove the encroachment put by the fourth respondent in the form a compound wall blocking the public road situate in S.F. No. 2/1 part, 3/1 part, 4/1 part, 5/1 part, 1/6 part, 1/8 part, 1/10 part in Alandur Village, Tambaram Taluk, Chennai District.

For the Petitioner : Mr.M.Ashwin Kumar

For the Respondents 1 & 2 : Ms.R.Anitha,
Special Government Pleader

For the Respondent 3 : Mr.N.Ganesan

For the Respondent 4 : Mr.Jasim Mohamed



ORDER

(Order of the Court was made by the Hon'ble Acting Chief Justice)

This writ petition has been filed to seek a direction on the first to third respondents to remove the encroachment put by the fourth respondent in the form of compound wall on the public road.

2. Learned counsel for the petitioner submits that on a public road, a compound wall has been constructed by the fourth respondent obstructing the access for the public to the road and in view of the above, this public interest litigation has been filed to seek a direction on the first to third respondents to remove the compound wall constructed by the fourth respondent.

3. The fourth respondent has filed counter stating that the compound wall has not been constructed to block the public road, but to protect the property. Referring to the facts and photographs enclosed along with the counter, he submits that huge garbage was dumped near the boundary of the fourth respondent. The compound wall was constructed within the boundary of the fourth respondent to protect it from misuse of others. It is not obstructing the public way as alleged by the petitioner, rather only to protect its own land adjacent to the public way.

4. Learned Special Government Pleader appearing for the first and second respondents has submitted an inspection report along with a map. It is to indicate that the road exists in the land of the fourth respondent. The map enclosed along with it, no doubt, shows a road, but the compound wall is in the land belonging to the fourth respondent. There is nothing on record to show it to be a public road falling under the Greater Chennai Corporation so as to claim a right by the petitioner. Apart from aforesaid, a serious objection to the maintainability of the writ petition has been taken. He would submit that the petitioner is having his own house near the land belonging to the fourth respondent. On account of the construction of the compound wall, the petitioner would be required to take a longer way to access the main road. It is only for that reason that the present writ petition has been filed and it is not a public interest litigation, but a personal interest litigation. The prayer is accordingly to dismiss the writ petition.

5. At this stage, learned counsel for the petitioner submits that it is not a personal interest litigation, but a public interest litigation for the reason that it is not only the petitioner, but also the neighbours who are also affected by the construction of the compound wall. A representation was also given by the neighbours. Therefore, it cannot be said to be a personal interest litigation.



6. We have considered the rival submissions and perused the records.

7. Before going into the facts, we are dealing with the objection raised by learned counsel for the respondents against the maintainability of the writ petition. The map produced by learned Special Government Pleader appearing for the first and second respondents shows the house of the petitioner close to the compound wall erected by the fourth respondent, which shows that he has to take a longer way to approach the main road. For that reason, the present writ petition has been filed. The petitioner has not filed this petition in any representative capacity on behalf of the other residents of the said area. In view of the above, it becomes clear that the writ petition has been filed to espouse his own cause and not in the interest of the public. Thus, we find substance in the objection of the learned counsel for the respondents against the maintainability of the present public interest litigation.

8. Apart from the aforesaid, even on facts, we do not find any merit in the writ petition. The road on the land of the fourth respondent is taken to be public road without placing any documents on record. The public road is required to be maintained by the Greater Chennai Corporation, whereas it is not falling under them, thus not maintained by them. It is a part of the land belonging to the fourth respondent. Therefore, it cannot be claimed to be a public way. Therefore, even on the facts, we do not find any merit in the writ petition.

In view of the above, the writ petition fails and the same is dismissed accordingly. W.M.P.No. 25439 of 2019 is closed. There will be no order as to costs.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

vjt

To:

- 1.The District Collector,
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Chennai - 600 001.
- 2.The Revenue Divisional Officer,
Guindy,
Chennai - 600 032.



3.The Commissioner,
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4.The Project Officer,
Tamil Nadu Small Industries Development
Corporation Limited (SIDCO),
Guindy Branch,
Guindy,
Chennai - 600 032.

+1cc to Mr.Ganesan, Advocate SR.No.64498

+1cc to Government Pleader, in SR.No.64397

[08/04/2022]

W.P.No.26051 of 2019

MG(CO)
RVM(10/12/2021)