

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 10.03.2021

CORAM

**THE HONOURABLE Mr.JUSTICE S.S.SUNDAR**

W.P.No.33565 of 2017  
and  
W.M.P.Nos. 37091 and 37092 of 2017  
and  
W.M.P.No.18397 of 2018

N.Kumar .... Petitioner

vs

1.The Commissioner,  
Corporation of Chennai,  
Poonamalle High Road,  
Chennai.

2.The District Collector,  
Tiruvallur District,  
Tiruvallur.

3.The Zonal Officer,  
Zone No.VII,  
Chennai.

4.The Tahsildar,  
Ambattur Taluk,  
Ambattur,

5.The Executive Engineer,  
Public Works Department,  
Ambatur, Chennai - 600053.

... Respondents

**PRAYER** : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents from putting up the compound wall and fencing in the property of the patta lands of the petitioner an extent of 2400 Sqft bearing Plot No.584, George Rathinam Salai, Golden George Nagar, Mogappair Village, Chennai 600 037, comprised in Town Survey Number 7/3, Block No.76.

For Petitioner : Mr.R.Subba Reddy

For Respondents : Mrs.A.Madhumathi

Special Government Pleader

## O R D E R

This writ petition is filed for issuing a Writ of Mandamus, forbearing the respondents from putting up the compound wall and fencing in the property of the patta lands of the petitioner measuring to an extent of 2400 sq.ft., bearing Plot No.584, George Rathinam Salai, Golden George Nagar, Mogappair Village, Chennai 600 037, comprised in Town Survey No.7/3, Block No.76.

2. It is the case of the petitioner that the petitioner is in possession/enjoyment of the property situated at Plot No.584, George Rathinam Salai, Golden George Nagar, Mogappair Village, Chennai 600 037 comprising in Town Survey No.7/3 in Block No.76 by virtue of a settlement dated 17.08.2016. It is also registered as document No.4005/2016 on the file of the Sub Registrar Office, Ambathur. It is stated that the petitioner's family was in possession of the land for more than 30 years. It is also stated that the property leased out to a tenant who is running a small tinkering shop in the property of the petitioner. Learned counsel for the petitioner submits that the petitioner was threatened by the respondents to put up a structure covering his property and that they are trying to dispossess the petitioner in that manner.

3. Learned counsel for the petitioner states that the fourth respondent in his counter affidavit categorically admitted that the title and ownership of the petitioner over the property and that the respondents should be restrained from interfering with the peaceful possession of the petitioner. The petitioner has produced certain revenue records and patta before this Court which shows that the petitioner is the owner of the property even as per the revenue records.

4. The first respondent has filed counter affidavit disowning any interest over the property. Similarly, the Tahsildar namely the fourth respondent herein has filed a counter affidavit, in which Paragraph Nos. 5 and 6 of the counter affidavit dated 18.03.2018 are relevant and they are extracted hereunder:-

"5. I respectfully submit that the averments contained in the affidavit under para 8 and 9 are false, and unsustainable. It is submitted that the petitioner has purchased unapproved plot and it was directed to evict the encroachment in the

Coovam River Poramboke in order to avoid further encroachment it was decided to construct a protection wall along the Coovam River further to earmarked to put a park for the General Public. It is further submitted that there is no proposal for putting a park in the petitioner land. Hence, there is no necessity to issue any notice to the petitioner. It is submitted that compounding and the formation of park is only in the Government poramboke land and not in the petitioners land.

6. I respectfully submit that the grounds taken by the petitioner from 1 to 8 are incorrect, and not maintainable as the formation of park and construction of compound wall is absolutely necessary in order to avoid any further encroachment. The above work is to be carry out only in the Government poramboke land and not in the petitioner land. Hence the question does not arise for taking over the petitioners land."

5. The first and fourth respondents from their counter affidavits does not specifically dispute the petitioner's holding in respect of land to which the petitioner claims ownership and possession. The respondents after admitting that the petitioner is in possession of the property has no right to interfere with the rights of the petitioner otherwise than by due process of law. The respondents are doing some activities around the land of the petitioner to construct a compound wall and also for formation of park which are purely for public good. The respondents admit that the petitioner's land will not be used for carrying out the construction activities over the Government poramboke land. It is not indicated by the respondents in their counter affidavits that the land is required in connection with the implementation of the scheme which is for benefit of the public.

6. Having regard to the facts stated in the affidavit and reply affidavit filed in support of the writ petition and counter affidavits filed by the first and fourth respondents, this Court is of the view that the petitioner is entitled to the relief as prayed for.

7. Accordingly, the writ petition is allowed and the respondents are directed not to put up compound wall and fencing encroaching into the property situated at Plot No.584, George Rathinam Salai, Golden George Nagar,

Mogappair Village, Chennai 600 037 in respect of which the petitioner was given patta in Town Survey No.7/3 in Block No.76. No Costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

- 1.The Commissioner,  
Corporation of Chennai,  
Poonamalle High Road, Chennai.
- 2.The District Collector,  
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Ambattur Taluk,  
Ambattur,
- 5.The Executive Engineer,  
Public Works Department,  
Ambatur, Chennai - 600053.

+1cc to Mr.P.SUBBA REDDY, Advocate, S.R.No.15151  
+1cc to the Government Pleader, S.R.No.15544

(CO)

CA(/06/2015)

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