



W.P.No.13301 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2022

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THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.13301 of 2013

and

M.P.No.1 of 2013

Dr.G.Gopalaswamy

... Petitioner

Vs.

1.The Assistant Commissioner,
Zone 13, Corporation of Chennai,
Adayar, Madras – 20.

2.The Commissioner,
Corporation of Madras,
Madras – 3.

3.Selvaraj

4.S.M.Palanisami

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus, directing the respondents 1 & 2 not to permit putting up of any temple or causing obstruction to the petitioner's Hospital from having access onto the 1st Street abutting their Hospital situated at Door No.36A Vellacherry Main Road, Madras – 32.



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W.P.No.13301 of 2013

For Petitioner : Mr.V.Raghavachari

For Respondents : Mrs.P.Manimegalai
Standing Counsel
for R1 & R2

ORDER

No representation on behalf of the private respondents 3 and 4. This case was heard at length on the previous occasion and today.

2.The petitioner has filed this writ petition for a mandamus to direct the respondents 1 & 2 not to permit putting up of any temple or causing obstruction to the petitioner's Hospital from having access onto the 1st Street abutting their Hospital situated at Door No.36A Vellacherry Main Road, Madras – 32.

3.The case of the petitioner appears that the petitioner had purchased this property by a sale deed dated 14.12.2011 as and when the petitioner was commenced its activity from May 2013, the private respondents have erected a temple on the back side of the property and thereby hindering ingress and egress to the property of the petitioner. It is submitted that public property



W.P.No.13301 of 2013

cannot be used by private party, even if it is meant for temple. The official respondents have given a feeble defense in the counter. However in para 6 it has been stated as follows:

“6.I respectfully submit that Corporation of Chennai has proposed to take action for removal of encroachment by issuing necessary notices to the temple authorities.”

4.It is the case of the official respondents that the petitioner cannot have access to the road from the back side on Tansi Road contrary to the approved plan given by the CMDA and Corporation of Chennai. It is submitted that the petitioner can have access only from the Velachery Main Road. It is further submitted that though the temple has been erected on the dead end of the Tansi Road, 1st Street on the rear side of the petitioner's property, the petitioner cannot have access to the Tansi Road, 1st Street, Velachery for its hospital.

5.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Standing Counsel for the 1st and 2nd respondents.



W.P.No.13301 of 2013

WEB COPY 6. The petitioner is running a Super Specialty Hospital under the name and style Prashanth Multi Specialty Hospitals. Copy of the CMDA approval and the Corporation Approval is not available. However the counter filed by the official respondents indicate that the petitioner can have access to property only from the Velachery road and not from the rear side on Tansi Road. The temple has been put up at the behest of the private respondents is on the public space i.e, on the Tansi Road. Therefore, I am inclined to interfere by directing the 1st and 2nd respondents to take steps for removing the encroachments by the 3rd and 4th respondents after due notice. However, it is left open for the petitioner to file an appropriate application before the 1st and 2nd respondents for having additional access through Tansi Road. Subject to such approval that may be granted by the official respondents herein, the petitioner may be allowed to put up a gate at the back side of the Hospital on the Tansi Road.



W.P.No.13301 of 2013

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7. Accordingly, this writ petition stands disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

04.07.2022

Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking Order
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To

1. The Assistant Commissioner,
Zone 13, Corporation of Chennai,
Adayar, Madras – 20.

2. The Commissioner,
Corporation of Madras,
Madras – 3.



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W.P.No.13301 of 2013

C.SARAVANAN, J.

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