

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.NOS.13303 & 13930 OF 2022

AND

W.M.P.NOS.12579, 12580, 12581,
13186 & 13189 OF 2022

1. B.Balasubramanian

2. Maurice C.P.Devakaram

3. T.Gowthaman

... Petitioners in
W.P.No.13303 of 2022

R.Prasanna

... Petitioner in
W.P.No.13930 of 2022

.Vs.

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003.
2. The Member-Secretary,
Chennai Metropolitan Development Authority,
'Thalamuthu-Natarajan Maaligai',
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
3. The Regional Deputy Commissioner (Central),
Corporation of Chennai - Zone 10,
Door No.36B, 2nd Cross Street,
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.
4. The Zonal Officer,
Zone X (Kodambakkam),
No.64, NSK Salai, Kodambakkam,
Chennai - 600 024.

5. The Tahsildar,
Mambalam Taluk Office,
New No.1, Old No.2,
Bharathidasan Salai,
(Near R.T.O. Office),
K.K.Nagar,
Chennai - 600 078.

... Respondents in
W.P.No.13303 of 2022

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003.
2. The Regional Deputy Commissioner (Central),
Corporation of Chennai - Zone 10,
Door No.36B, 2nd Cross Street,
Pulla Avenue, Shenoy Nagar,
Chennai - 600 030.
3. The Zonal Officer,
Zone X (Kodambakkam),
No.64, NSK Salai, Kodambakkam,
Chennai - 600 024.
4. The Executive Engineer,
Zone X, Greater Chennai Corporation,
No.117, NSK Salai, Kodambakkam,
Chennai - 600 026.
5. The Tahsildar,
Mambalam Taluk Office,
New No.1, Old No.2,
Bharathidasan Salai,
(Near R.T.O. Office),
K.K.Nagar,
Chennai - 600 078.

.. Respondents in
W.P.No.13930 of 2022

PRAYER IN W.P.NO.13303 OF 2022:-

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents to remove the construction or any obstruction put up in the public street in S.No.27, Block No.17 of Saligramam Village, Mambalam Taluk and restore the public street to its original state enabling access to the petitioners and the General public within a stipulated time fixed by this Court.

PRAYER IN W.P.NO.13930 OF 2022:-

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the third respondent relating to the impugned order dated 18.03.2022 in Z.O.X.C.No.A2/2698/10/2022 and to quash the same as illegal, arbitrary and devoid of merit and consequently directing the respondents to remove the construction or any obstruction put up in the public street comprised in S.No.27, Block No.17 of Saligramam Village, Mambalam Taluk and restore the public street to its original state enabling access to the petitioner and the General public within a stipulated time fixed by this Court.

For Petitioners : Mr.Ralph V.Manohar
in W.P.No.13303 of 2022

Mr.F.Terry Chella Raja
in W.P.No.13930 of 2022

For Respondents : Mr.P.Manoj Kumar
Standing Counsel
For R1, R3 and R4
in W.P.No.13303 of 2022
and R1 to R4
in W.P.No.13930 of 2022

Mr.R.Sivakumar
Standing Counsel CMDA
For R2
in W.P.No.13303 of 2022

Mr.K.Karthik Jaganathan
Government Advocate
For R5 in both cases

COMMON ORDER

(Order of the Court was made by T.RAJA, J.)

W.P.No.13303 of 2022 has been filed by the petitioners seeking a direction to the respondents to remove the construction or any obstruction put up in the public street in S.No.27, Block No.17, Saligramam Village, Mambalam Taluk and restore the public street to its original state enabling access to them and the general public within a stipulated time fixed by this Court.

W.P.No.13930 of 2022 has been filed by the petitioner challenging the impugned order Z.O.X.C.No.A2/2698/10/2022 dated 18.03.2022 issued by the Zonal Officer, the third respondent herein and seeking a direction to the respondents to remove the construction or any obstruction put up in the public street, comprised in S.No.27, Block No.17, Saligramam Village, Mambalam Taluk and restore the public street to its original state enabling access to him and the general public within a stipulated time fixed by this Court.

2. Learned counsels appearing for the petitioners submitted that the petitioners are residing at Old Door No.4, New Door No.7, Door No.5/6, Plot Nos.1 & 2, comprised in S.Nos.28, 26/1 and 26/2 respectively Block No.17, Mullai Street, Gandhi Nagar, Saligramam, Chennai - 600 093, Saligramam Village, Mambalam Taluk and as per the original layout, 24 Feet Road runs on the Eastern side of the above properties. While so, on 17.05.2022, when the Corporation officials have started putting up construction in the public street comprised in S.No.27, the same was questioned by the petitioners, but the officials informed us that they are constructing a Primary Health Center in the public street. Since the said property abuts Mullai Street on the Eastern side and Northern side and the construction work is being done in a hasty manner, the petitioners informed the officials that the land under construction is a public street. Learned counsels for the petitioners further submitted that even assuming a Primary Health Centre is for the benefit of the public, the same cannot be constructed in a Public Street. Due to the construction in the Public Street, the underground electricity cables to their property were disconnected. Although respondents 3 and 4 are well aware of the fact that S.No.27 is a Public Street, they are continuing with the construction, which is un-authorised. Although the petitioners given representations to the respondents on 20.05.2022 and 25.05.2022, the construction was carried on. Learned counsels for the petitioners further submitted that blocking the public street would cause great hardship not only to the petitioners and also to other people residing nearer to the above place. Therefore, the petitioners are before this Court with the above prayer.

3. A detailed status report has been filed by the Executive Engineer, Greater Chennai Corporation, the fourth respondent herein stating that in order to ascertain the claim of the petitioners, a letter was addressed to the Tahsildar, Mambalam Taluk to furnish the details of the land at Block No.17, T.S.No.27, Gandhi Nagar, Mullai Street, Saligramam Village, Chennai and on receipt of the above letter, the Tahsildar, Mambalam Taluk has sent a reply letter dated 30.05.2022 enclosing the block map and extract from the permanent land register. On verification of the records furnished by the

Tahsildar, Mambalam Taluk, it was found that the land in question stands in the name of one Mr. Balaram Pillai and in the block map, the street was shown as dead-end street. Therefore, the Greater Chennai Corporation has stopped the construction activity of the Urban Health and Wellness Center in the site in question and also taking steps to cancel and re-call a fresh tender for construction of the Urban Health and Wellness Centre, after identifying an alternate site.

4. Heard both sides.

5. In this regard, it is relevant to extract paragraphs 7 to 9 of the status report filed by the Executive Engineer, Greater Chennai Corporation, the fourth respondent herein as under:

'7. In order to ascertain the claim of the petitioner's, a letter was addressed to the Tahsildar, Mambalam Taluk to furnish the details of the land at Block No.17, T.S.No.27, Gandhi Nagar, Mullai Street, Saligramam Village, Chennai.

8. It is submitted that on receipt of the above letter, the Tahsildar, Mambalam Taluk has sent a reply letter dated 30.05.2022 vide Na.Ka.No.A1/1369/2022 by enclosing the block map and extract from the permanent land register. It is further submitted that on verifying the records furnished by the Tahsildar, Mambalam Taluk, it was found that the land in question stands in the name of one Mr. Balaram Pillai and in the block map, it was shown as dead-end street.

9. It is submitted that the Greater Chennai Corporation has stopped the construction activity of the Urban Health and Wellness Center in the site in question and also taking steps to cancel and re-call a fresh tender for construction of the Urban Health and Wellness Centre after identifying an alternate site.

6. A perusal of the above status report would show that the Greater Chennai Corporation has stopped the construction activity of the Urban Health and Wellness Center in the site in question and also taking steps to cancel and re-call a fresh tender for construction of the Urban Health and Wellness Centre, after identifying an alternate site.

7. In view of the above stand taken by the respondents that the street in question does not belong to the Corporation, we

direct the authority concerned to clear all the unwanted structures/obstruction put up by them in the said street within a period of one week from the date of receipt of a copy of this order.

8. With the above direction, these writ petitions stand disposed of. Consequently, connected W.M.Ps are closed. However, there is no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vga

To

1. The Member-Secretary,
Chennai Metropolitan Development Authority,
'Thalamuthu-Natarajan Maaligai',
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
2. The Zonal Officer,
Zone X (Kodambakkam),
No.64, NSK Salai, Kodambakkam,
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Door No.36B, 2nd Cross Street,
Pulla Avenue, Shenoy Nagar,
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6. The Executive Engineer,
Zone X, Greater Chennai Corporation,
No.117, NSK Salai, Kodambakkam,
Chennai - 600 026.

+4ccs to Mr.Ralph V.Manohar, Advocate, S.R.No.42420 & 42421
+4ccs to Mr.P.Manoj Kumar, Advocate, S.R.No.42403 & 42404
+1cc to the Government Pleader, S.R.No.41960

W.P.NOS.13303 & 13930 OF 2022 AND
W.M.P.NOS.12579, 12580, 12581,
13186 & 13189 OF 2022

SJ(CO)
PBS/20/07/2022