



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2022

CORAM:

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

W.P.No.18233 of 2018

1. D.Mohan
2. M.Ramya

.. Petitioners

Vs.

1. The Commissioner,
Tambaram Municipality,
No.1, Muthuranga Mudali Street,
West Tambaram, Tambaram,
Chennai - 600 045.

2. The Special Thasildar,
Land Revenue, Thasildar Office,
Tambaram, Chennai - 600 045.

3. L.Chitra

4. A.R.Krishna Narayanan

.. Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, directing the respondents 1 and 2 to take expeditious steps on the representation of the Petitioners dated 17.05.2018, for demolition of the unlawful construction made by the respondents 3 and 4 encroaching upon the exclusive passage belonging to the petitioners and two others in Survey No.82 and in the property of the petitioners bearing Door No.10A, Karnam Street, Selaiyur, Tambaram, bearing Survey No.146/7 and as per Revenue records New Survey No.87, deviating from the Building Plan sanctioned by the 1st respondent by the P.P.A.No.211 of 2016 and P.P.L.No.311 of 2016, dated 26.07.2016.

For Petitioners : Mr.S.Natanarajan

For Respondent 1 : Mr.P.Srinivas

For Respondent 2 : Mr.K.V.Sajeev Kumar
Special Government Pleader



For Respondent 3 : Mr.V.Janarthanan

For Respondent 4 : Mr.V.Subramanian

O R D E R

WEB COPY

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

This writ petition has been filed by Mr.D.Mohan and his wife jointly for issuance of a Writ of Mandamus under Article 226 of the Constitution of India directing the respondents 1 and 2 to take expeditious steps on the representation of the petitioners dated 17.05.2018, for demolition of the unlawful construction made by the respondents 3 and 4 encroaching upon the exclusive passage belonging to the petitioners and two others in T.S. No.82 and in the property of the petitioners bearing Door No.10A, Karnam Street, Selaiyur, Tambaram, bearing Survey No.146/7.

2. When the matter was taken up, the learned counsel appearing for the respondents 3 and 4 requested us to dismiss the writ petition on the premise that no writ will lie against private parties for removal of encroachments found in a private land. In support of their submissions, they drew our attention to the counter affidavit filed by the first respondent Commissioner of Tambaram Municipality. It is the case of the first respondent also that the alleged encroachment said to have been made is only in T.S.No.82 and the pathway in T.S.No.82 has been shown as a pathway of the private parties and it is not vested with the Tambaram Municipality and it is not part of any public street or lane.

3. Learned counsel for the respondents 3 and 4 also further stated that as per the counter of the first respondent the alleged encroachment has also been removed by the respondents 3 and 4. They also fairly submitted that a Civil Suit in O.S.No.155 of 2018 has been filed by the respondents 3 and 4 against the petitioners before the District Munsif Court, Tambaram seeking permanent injunction and the same is still pending.

4. Since the alleged encroachment is said to have been made in T.S.No.82 and as per the counter affidavit filed by the first respondent the pathway falls only on a private land, no Writ will lie. Further a civil suit in O.S.No.155 of 2018 between the parties is still pending before the District Munsif Court, Tambaram, this Court is not inclined to entertain the writ



petition and accordingly the writ petition is dismissed. However, liberty is granted to the parties to workout their remedies in the manner known to law. No costs.

WEB COPY

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

kk

To

1. The Commissioner,
Tambaram Municipality,
No.1, Muthuranga Mudali Street,
West Tambaram, Tambaram,
Chennai - 600 045.
2. The Special Thasildar,
Land Revenue, Thasildar Office,
Tambaram, Chennai - 600 045.

+1cc to Mr.N.Sivaprakash, Advocate, S.R.No.32358
+1cc to the Government Pleader, S.R.No.33094

W.P.No.18233 of 2018

GSM(CO)
SB(29/06/2022)