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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 07.01.2022

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

W.P. No.24603 of 2021

Senthilkumar

.. Petitioner

Versus

1. The District Collector,
Collectorate, GST Road,
Chengalpattu 603001.
2. The Tahsildar,
No.1, Rajiv Gandhi Salai,
1st Cross Street, Sholinganallur,
Chennai 600119.
3. The Commissioner of Chennai Corporation,
Rippon Building, 1st Floor, Raja Muthiah Road,
Kannappar Thidal, Periyamet,
Chennai 600003.
4. The Executive Engineer,
Chennai Corporation Zone 14,
6/64, i/c, Zone-XIV, Puzhuthivakkam Main Road,
Perungudi, Chennai 600091.
5. The Superintendent of Police,
35, OMR, Old Mahabalipuram Road, Ezhil Nagar,
Sholinganallur, Chennai 600119.
6. V.Sriram
7. Small Vendors Public Welfare Association-
Anna Nedunchalai Kandanchavadi
Rep. by its President
K.Dharman

.. Respondents

[RR6 & 7 are impleaded as per the order of this Court,
dated 07.01.2022 in WMP.Nos.26940 & 30057 of 2021
in WP.No.24603 of 2021]



PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus, directing the respondents herein to consider the petitioner's representation dated 28th September 2021 and take immediate and appropriate actions to evict the encroachments on Anna Nedunchalai, Perungudi, OMR Road, Rajiv Gandhi Salai, Chennai 600078 adjoining to the Petitioner's Patta land bearing Survey No.226, Resurvey No.226/13A of Perungudi Village, Tambaram Taluk, Kancheepuram District now as Chennai District.

For petitioner : Mr.N.Bhagavan

For respondents

for RR1, 2 & 5 : Mr.R.Siddharth, Government Advocate

for R3 & 4 : Mr.R.Gopinath,
Standing Counsel for R 3&4

for R6 : Mr.V.Karnan

for R7 : Mr.A.Ramesh Manikandan

ORDER

(The Order of the Court was made by K.KALYANASUNDARAM, J)

The Writ Petition is heard through video conferencing.

2. The prayer in the Writ Petition is to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 28th September 2021.

3. The petitioner would state that he is the absolute owner of the land measuring 5 grounds situated at Anna Nedunchalai Road, Perungudi, OMR Road, Rajiv Gandhi Salai, Chennai 600078 in Survey No.226 of Perungudi Village and the property was purchased through a sale deed dated 14th June 2019.

4. The learned counsel appearing for the petitioner Mr.N.Bhagavan would state that in and around the property of the petitioner there are unauthorised and illegal encroachments in the public road and hence, a representation dated 28th September 2021 was given, but no action has been taken. He further submitted that it would suffice, if the official respondents are directed to take appropriate action on the representation of the petitioner in a stipulated time.



5. The fourth respondent has filed a counter and in paragraphs 12 to 14, it has been stated as follows:

"12. I submit that in respect of para 12 of the affidavit, the road was inspected by the Assistant Executive Engineer and Assistant Engineer on 19.11.2021 and found that the Anna Nedunalai is one of the busiest road in the Chennai City. The Anna Nedunsalai road that to extent of 2050m and width of 12m and the road in two parts. The first part of the road length was 207 and the Town Vending Committee had allotted 15 vendors and second part of the road length is 1843m and the Town Vending Committee had allotted 26 vendors. The petitioner land was come under the first parts in the road and land bearing Survey No.226, Re-Survey No.226/13A.

13. With regard to the averments in para 13 of the affidavit, I submit that the Anna Nedunslai Road was inspected by the Assistant Executive Engineer and Assistant Engineer on 19.11.2021 and found 30 petty shops. Therefore, Town Vending Committee had allotted the 15 vendors in the Anna Nedunsalai first part. But at present there were 30 pet shops in the road. In those 30 petty shops only 8 vendors are having the vending ID card issued by the Greater Chennai Corporation.

14. With regard to the para 14 of the affidavit, I submit that the Greater Chennai Corporation will be taken further action against the encroachers as per due process of law. The 8 vendors will be relocation or eviction of street vendors."

6. The learned Standing Counsel appearing for the Greater Chennai Corporation Mr.R.Gopinath would submit that the fourth respondent is the competent authority and he is ready to take appropriate action on the representation of the petitioner.

7. One of the street vendor, viz., V.Sriram has filed WMP.No.26940 of 2021 to implead him as a respondent in the present Writ Petition and the same is allowed today. The learned counsel appearing for the impleading petitioner Mr.V.Karnan would submit that the Writ Petitioner has purchased the property only in the year 2019, but the Street Vendors have been carrying on business in the locality for more than 30 years with licenses issued by the competent authority.

8. Mr.A.Ramesh Manikandan, learned counsel appearing for the Small Vendors Public Welfare Association has submitted that



he has filed WMP.No.30057 of 2021 for impleading and made similar submissions. According to the learned counsel, the alleged encroachers are street vendors and they are protected by the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act.

9. In view of the counter filed by the fourth respondent that the vendors, who were already issued with I.D. card will be allotted place in other location in the same area, this Court directs the fourth respondent to consider the representation of the petitioner and take action in accordance with law, after providing ample opportunity to the necessary parties. The said exercise shall be completed within a period of six months.

10. With the above directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The District Collector,
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4. The Executive Engineer,
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6/64, i/c, Zone-XIV,
Puzhuthivakkam Main Road,
Perungudi, Chennai 600091.



5. The Superintendent of Police,
35, OMR, Old Mahabalipuram Road, Ezhil Nagar,
Sholinganallur, Chennai 600119.

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+1cc to Mr.A.Ramesh Manigandan, Advocate, S.R.No.1685

+1cc to Mr.R.Gopinath, Advocate, S.R.No.1456

+1cc to Mr.K.Thenrajan, Advocate, S.R.No.1506

+1cc to the Government Pleader, S.R.No.1959

W.P. No.24603 of 2021

CA(CO)
SU(28/03/2022)