



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.24701 OF 2021

AND

W.M.P.NO.25994 OF 2021

Sunil Bhandari

... Petitioner

-Vs-

1. The Revenue Divisional Officer,
Tambaram Division,
GST Road,
Chennai - 600 045.
2. The Block Development Officer,
St.Thomas Mount Panchayat Union,
Chitlappakkam,
Chennai - 600 064.
3. The Executive Engineer,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003.
4. The District Collector Office,
Chengalpattu District,
Chengalpattu.
5. The Tahsildar,
NH32, Chitlapakkam,
Tambaram West,
Tambaram,
Chennai - 600 045.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus forbearing the respondents, their men, agents, servants or anyone acting on their behalf, from in any manner proceeding with further demolition or any other related activity in the premises at



Survey Nos.142/2, 145, 143, Arasankalani Village, Tambaram Taluk, Chengelpet District.

For Petitioner : Mr.Kumarpal.R.Chopra

For Respondents : Mr.V.Manoharan
Additional Government Pleader
For R1, 2, 4 & 5

Mr.R.Gopinath
Standing counsel
For R3

WEB COPY

O R D E R

The prayer sought for herein is for a Writ of Mandamus forbearing the respondents, their men, agents, servants or anyone acting on their behalf, from in any manner proceeding with further demolition or any other related activity in the premises at Survey Nos.142/2, 145, 143, Arasankalani Village, Tambaram Taluk, Chengelpet District.

2. The case of the petitioner is that, the petitioner is the absolute owner of the land to an extent of 1.01 acres in Survey No.142/2, 0.69 acres in Survey No.145 and 1 acre 23 cents in Survey No.143, totaling an extent of 2 acres 93 cents at Arasankalani Village, Tambaram Taluk, Chengelpet District. The petitioner purchased the said land from various third parties sometime in 2020 and the petitioner had been in continuous possession and enjoyment of the property, patta also has been issued in the name of the petitioner.

3. When that being so, during the rainy season, due to heavy flood water being let in, in order to pave the way to let in more flood water, the local authorities as well as the officials belong to other Departments like Revenue, PWD etc., every time make an attempt to break open the flood gate by breaking the compound wall put up by the petitioner around his property, so that, the flood water which otherwise was to let in to a particular channel can be quickly permitted to pass on through the land belongs to the petitioner.

4. This attempt being made by the respondent authorities every time when the heavy flood comes in that area which creates havoc to the petitioner, as his patta land with compound wall is being attempted to be demolished. Such action, according to the petitioner, is high-handed one and the petitioner is getting prejudiced by such action. Therefore, this time also during the rainy season when such an attempt was made, this Writ Petition



was moved with the aforesaid prayer as an emergent Writ Petition.

5. This Court after having considered the prima-facie case made out by the petitioner's side by order dated 16.11.2021 passed the following interim order:

"It is submitted by the learned counsel appearing for the petitioner that, the property in S.Nos.143, 145, 146 and 147 at Arasankalani Village, Kancheepuram District belongs to the petitioner. It has an total extent of 7 ½ acres of land where the petitioner after getting approval already developed a lay out plan, where some of the plots have been sold to the individuals, some 15 number of houses also have been constructed and for the entire area of 7 ½ acres, a packa compound wall was already taken and absolutely, there has been no dispute that, the entire land of 7 ½ acres in the aforesaid survey numbers belongs to the petitioner.

2. It is the further case of the petitioner that, the said land is neither a water course or a water canal and it is a packa residential plots which have been made out pursuant to the plan approval given by the plan approving authorities.

3. While that being so, every time when there has been heavy rain in that locality, in order to get the water flow freely from the nearby channel, the public authorities were trying to demolish the compound wall of the petitioner to let the water in large quantity to the plots of the petitioner and that kind of attempt was made during July 2021 when similar situation had arisen. Therefore, the petitioner filed Writ Petition in W.P.No.20151 of 2020, where, this Court passed the following order:

"3. The allegation of the petitioner is that the premises in Survey Nos.142/2, 145, 143 Arasankalani Village, Tambaram Taluk, Chengalpattu District, is a private property and for the said property, patta also stands in the name of the petitioner. During the monsoon period, due to ejection of rain water, the third respondent made an attempt to demolish the compound wall of the petitioner. Therefore, the present petition is filed by the petitioner.



WEB COPY

4. The learned Standing counsel appearing for the respondent Corporation as well as the sixth respondent would fairly submit that the aforesaid property belongs to the writ petitioner and due to water logging in the said area and to eject the water, they have taken steps to remove the compound wall. Only for the aforesaid bonafide reason, action will be taken by the respondent officials. Therefore, there is no intention to interfere with the possession of the petitioner by adopting illegal methods. By during the monsoon period the entire road has been water logged, therefore action taken by the petitioner.

5. Therefore, this Court is of the view that the aforesaid property comprised in S.Nos.142/2, 145, 143 belongs to the writ petitioner. Hence, the respondent shall not interfere or demolish the compound wall of the petitioner property. In case of any urgency, the respondent can proceed to take action for removal of the petitioner's compound wall, by following the procedure, as contemplated under law.

6. In view of the aforesaid findings, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed."

4. Similar situation has arisen now also due to the recent heavy rain poured in the city of Chennai and its outskirts. This time also, the officials and the staffs of the respondent Departments came for demolishing the compound wall put up by the petitioner in his private land and thereby, to cause great damages and inconvenience to lot of residential plots already developed by the petitioner. Therefore, the petitioner has rushed to this Court by filing the present Writ Petition.

5. Heard Mr.E.Vijay Anand, learned Special Government Pleader appearing for the respondents who would submit that, since the case papers have not been readily made available to him and it is not served by the petitioner in time directly to the learned Additional Government Pleader, he is not in a position to get written instructions and report



before this Court and hence he wants one day accommodation to get instructions.

6. In view of the said request made by the learned Additional Government Pleader, post this Writ Petition on 18.11.2021 immediately after admission.

7. In the meanwhile, the status quo as of now in respect of the property of the petitioner including the compound wall shall be maintained and no perceptipative action shall be taken by the respondents and their men."

6. Subsequently, the case came up after sometime for hearing and today when the case is taken up for hearing, the learned Additional Government Pleader appearing for the respondents would submit that, the land in question belongs to the petitioner, if it is a patta land, around the same if there is any compound wall already built up by the petitioner, certainly the revenue people or PWD or Local Authority, in the name of letting of the flood water, cannot attempt to break open the compound wall. Therefore, merely based on the apprehension, the petitioner has approached this Court and seeking for a Writ of Mandamus prohibiting the respondents.

7. However, insofar as the respondents view is concerned, wherever it is possible to let in the flood water during the heavy flood season, to save the people in the locality, they will explore the possibility of letting the storm water only in the possible drains or channels used for storm water drain and not through any particular private property like petitioner's one.

8. In response to the said submission made by the learned Additional Government Pleader, the learned counsel appearing for the petitioner would submit that, every time when such kind of heavy flood comes, this kind of attempt is being made by the respondents and last such attempt was made in the previous years also triggered the petitioner to come before this Court to file the Writ Petition in W.P. No. 20151 of 2020, where also an order to that effect has been passed by this Court by order dated 12.07.2021.

9. However this time also, i.e., during 2021 flood season, again such attempt has been made, that is the reason why the petitioner is constrained to approach this Court by filing the present Writ Petition. Therefore, this kind of recurrent attempt is made by the respondents every time when there is a flood during the rainy season, thereby causing huge havoc to the petitioner and his property, therefore, a suitable direction to



give a permanent solution or quietus, can be given by this Court, he contended.

10. The learned Standing counsel appearing for the respondent Corporation would submit that, insofar as the land in question or area in question is concerned, it does not come under the purview of the Chennai Corporation, therefore, he has no role to play in this case.

11. I have considered the said submission made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

12. As has been stated by the learned Additional Government Pleader appearing for the respondents, since they have not attempted any demolition work of the wall constructed by the petitioner around the land belongs to the petitioner which is in question, this Court at present is of the view that, no further order need to be passed by way of mandamus.

13. But at the same time, since the earlier year also, when such attempt was made, the petitioner filed the Writ Petition referred to above and this year also, he had come with the Writ Petition. Therefore, this kind of recurrent attempt may not be repeated in the future years and that can be ensured by the authorities concerned. In this regard, if at all any corrective measures has to be taken by the respondents to strengthen the storm water drain, it is open to them to do that, without making any attempt to demolish the compound wall of the private properties like the petitioner and others located in the particular locality.

14. With these observations, this Court feels that, this Writ Petition can be disposed of. However with the liberty to the petitioner to raise the same in future if any contingency arises.

15. With this liberty with the aforesaid observation, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vji / rap



To

1. The Revenue Division Officer,
Tambaram Division,
GST Road,
Chennai - 600 045.
2. The Block Development Officer,
St.Thomas Mount Panchayat Union,
Chitlappakkam,
Chennai - 600 064.
3. The Executive Engineer,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003.
4. The District Collector Office,
Chengalpattu District,
Chengalpattu.
5. The Thasildar,
NH32, Chitlapakkam,
Tambaram West, Tambaram,
Chennai - 600 045.

+1cc to Mr.R.Gopinath, Advocate, S.R.No.307
+1cc to the Government Pleader, S.R.No.658

W.P.NO.24701 OF 2021 AND
W.M.P.NO.25994 OF 2021

JPL(CO)
PBS/03/03/2022