



WEB COPY



W.P.No.822 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12/12/2022

C O R A M

THE HONOURABLE Mr.JUSTICE N. SATHISH KUMAR

Writ Petition No.822 of 2020

Patel Exports India
rep. By its Partner
Mr.Mitesh Patel
No.17 Race Course Road, Guindy
Chennai 600 032. ... Petitioner

Vs

1. The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai 600 003.
2. The Member Secretary
Chennai Metropolitan Development Authority
Egmore
Chennai 600 008.
3. Ajay K. Agarwal ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the officials of the first respondent to consider the representation of the petitioner, dated 30/10/2019 and to lay road in the Race View Colony II Street, Guindy, Chennai 600 032 along the entire length from Race Course Road on the East, to Race View Colony Road on the West.



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For Petitioner ... Mr.Venkatesh Mahadevan

For respondents ... Mr.Arun Dhanapalan
for Mr.D.B.R.Prabhu
for R.R.1 and 2

Mr.S.Manuraj
for Mr.K.Thangarasu for R.3

ORDER

This writ petition has been filed to direct the officials of the first respondent, to consider the representation of the petitioner, dated 30/10/2019, and to lay road in the Race View Colony II Street, Guindy, Chennai 600 032 along the entire length from Race Course Road on the East, to Race View Colony Road on the West.

2. The case of the petitioner is that in a larger extent of 2 acres and 52 cents situated in Velachery Village, which is the subject matter of the suit in C.S.No.50 of 1953, on the basis of a compromise, decree dated 14/12/1954 was passed, wherein, the parties had agreed to provide 30 feet width road on the southern side of the entire property. The third respondent having purchased the property has suppressed the 30 feet width road.



3. It is the further case of the petitioner that 30 feet width road starting from the Race Course road on the east and proceeding westwards as Race View Colony II Street, is the only access road for 250 residents in the Race View Colony. From infants to Octogenarians, more than 1000 persons are residing in the said Race View Colony. Emergency services, such as Ambulance, Fire Service vehicles, will have to access the said Race View Colony only through the said Race View Colony II Street. If 30 feet road is not provided, there would be no ingress and egress for the persons in the said locality. Hence, the petitioner has come forward with the present writ petition praying for the relief as stated therein.

4. Heard Mr.Venkatesh Mahadevan, learned counsel for the petitioner, Mr.Arun Dhanapalan, learned counsel for the respondents 1 and 2 and Mr.S.Manuraj, learned counsel for the third respondent.

5. The learned counsel appearing for the third respondent submitted that the petitioner has filed a suit for bare injunction. Earlier decree was passed in the year 1954, which was acted upon by the parties to the said suit. That being the case, the direction sought for by the petitioner for laying a road for the entire stretch is wholly unsustainable.



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6. Learned Standing counsel appearing for the Corporation submits that the dispute is only with regard to 15 feet and the balance of 15 feet area is being used by the residents and the Corporation has the right over the said land and, therefore, the Corporation will lay a road on the 15 feet, which is within their control.

7. Perused the materials available on record.

8. The petitioner traces title on the basis of the compromise decree of the year 1953, which has not been put to enforcement. Later, it appears that the petitioner himself had filed a suit in O.S.No.4906 of 1996, on the file of III Assistant City Civil Court, Chennai. Even though, issues are framed with regard to the limitation, etc., suit was ultimately dismissed.

9. In such a view of the matter, as there is no dispute with regard to 15 feet, which is vested in the Corporation, the Corporation shall lay the road in the said area. In respect of other 15 feet which is claimed by the petitioner, the same shall await the decision in the pending suit.



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10. With the above direction, this writ petition is disposed of. No costs.

12/12/2022

Index : Yes / No

Internet: Yes

Speaking/non speaking order

mvs.

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N. SATHISH KUMAR, J

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