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W.P.Nos.16129 of 2021 and 21343 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.09.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P Nos.16129 of 2021 & 21343 of 2023
and W.M.P.Nos.17061 of 2021 & 20741, 20742 of 2023

1.Regina Selvam
2.S.Sampath
3.C.James
4.B.Sargunavathy
5.Kurshida Begum
6.K.Manimaran
7.S.Gopinath

...Petitioners in W.P.No.21343 of 2023

C.James

...Petitioner in W.P.No.16129 of 2021

Vs.

1.The Commissioner,
Chennai Corporation,
Ripon Buildings, Chennai – 600 003.

2.The Zonal Officer,
Chennai Corporation,
Zone VI, Division.65,
No.5, Andersen Street,
Ayanavaram, Chennai – 600 023.

3.The Chairman-cum-Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai, Chennai – 600 005. ...Respondents in both W.P.'s



W.P.Nos.16129 of 2021 and 21343 of 2023

Prayer in W.P.No.16129 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the Respondents from in any manner interfere with nor disturb the usage of 20 feet width road running from Sathiyavanimuthu Road Extension (25th Street), leading up to Door No.38, 25th Street, GKM Colony, abutting the Pond at GKM Colony, Chennai -82 falling with the Chennai Corporation Limits in present Division No.65.

Prayer in W.P.No.21343 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the Respondents No. 1 and 2 from in any manner interfere with nor disturb the usage of 20 feet width road running from Sathiyavanimuthu Road Extension (25th Street), leading up to Door No.38, 25th Street, GKM Colony, abutting the Pond at GKM Colony, Chennai -82 falling with the Chennai Corporation Limits in present Division No.65, under the guise of Rejuvenation of GKM Colony pond park.

For Petitioners (in both W.P.'s)	: Mr.T.S.Rajamohan
For Respondents 1 & 2 (in both W.P.'s)	: Mr.A.S.Ragul Adhithya for Mrs.P.T.Ramadevi Standing Counsel (GCC)
For Respondent 3 (in both W.P.'s)	: M/s.G.Thilgavathy for Mr.S.Karthikeyan Standing Counsel (TNUHDB)



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COMMON ORDER

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These writ petitions are filed seeking issue of Writ of Mandamus forbearing the respondents 1 & 2 from any manner interfering with petitioners' usage of 20 feet width road running from Sathiyavanimuthu Road Extension (25th Street), leading up to Door No.38, 25th Street, GKM Colony, abutting the Pond at GKM Colony, Chennai -82

2.It is the case of the petitioners that they are all occupants of GKM Colony and the 20 feet width road was provided by the Authorities for laying water and sewage pipeline and the said road is sought to be obliterated by the respondents 1 & 2 in the guise of developing the pond area.

3.Earlier, the petitioner in W.P.No.16129 of 2021 filed the writ petition in W.P.No.13010 of 2020 with similar prayer arraying the State and the 3rd respondent herein as the parties. The said writ petition came to be disposed of by recording undertaking of the respondents therein that road in question would not be disturbed. However, while disposing the above writ petition, this Court made it clear that in case of any encroachment, the respondents therein were entitled to take action for removal of encroachment.



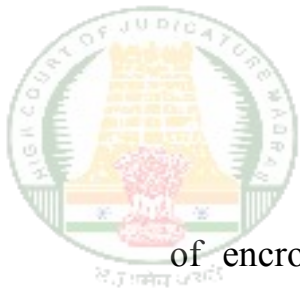
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4.Mr.A.S.Ragul Adhithya for Mrs.P.T.Ramadevi, learned Standing Counsel (GCC) appearing for the respondents 1 & 2 on instructions, submits that the 20 feet width road claimed by the petitioners are coming with the pond area. Therefore, the petitioners are not entitled to any protection as prayed for.

5.M/s.G.Thilgavathy for Mr.S.Karthikeyan, learned Standing Counsel (TNUHDB) appearing for the 3rd respondent also on instructions, submits that the 20 feet width road claimed by the petitioners was formed by dumping soil into the pond area. Hence, the petitioners are only the encroachers, claiming pond area as a road. Therefore, as the encroachers they are not entitled to any protection.

6.Whether the 20 feet width road claimed by the petitioners is coming within the pond area or not is a disputed question of fact, which cannot be gone into by this Court conveniently in a proceedings under Article 226 of the Constitution of India. Earlier, when the petitioner approached this Court in W.P.No.16129 of 2021 with a similar prayer, the said writ petition was disposed of with liberty to the respondents therein to take action for removal



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of encroachment, if any. In such circumstances, the respondents are not entitled to disturb the usage of petitioners over 20 feet width road without following due process of law. Hence, the respondents are directed not to disturb petitioner's right of usage over 20 feet width road except by due process of law. In case, the respondents find that 20 feet width road claimed by the petitioners is an encroachment of pond area, it is for them to take appropriate legal proceedings for removal of alleged encroachment in accordance with law.

7. With this clarification, the writ petitions stand disposed of. No costs. Consequently connected miscellaneous petitions are closed.

07.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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S.SOUNTHAR, J.

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To

- 1.The Commissioner,
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