



WEB COPY

W.P.No.19833 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2023

CORAM :

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ**

Writ Petition No.19833 of 2019

C.Adlin

.. Petitioner

Versus

1. The Commissioner Corporation of Chennai,
Ripon Buildings, Chennai - 600 003.
2. The Assistant Executive Engineer,
Zone - 7, Ambathur, Chennai.
3. Perumal
4. Mathurai
5. Kala
6. The Tahsildar,
Tiruvallur High Road,
Gandhi Nagar, Ambattur,
Chennai - 600 053.

(R6 impleaded vide order dated 21.03.2022
made in WMP.No.3094 of 2022 in
WP.No.19833 of 2019)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 and 2 to remove the encroachment in the public road on the southern side of the petitioner's property situated at Plot No.11 of Old No.54 and New No.61, Korattur Village, Saidapet Taluk, Ambathur Municipality, comprised in S.No.907/5A.

For Petitioner	:	Mr.D.Selvam for Mr.S.Praveenath
For R1 & R2	:	Mr.R.Gopinath
For R3 to R5	:	Mr.S.S.Jhothivani



For R6

: Mr.A.Selvendran,
Special Government Pleader

ORDER

(Order of the Court was made by R. MAHADEVAN, J.)

Heard the learned counsel appearing for all the parties and perused the materials placed before this court.

2.This writ petition has been filed by the petitioner seeking a direction to the respondents 1 and 2 to remove the encroachment in the public road on the southern side of her property situated at Plot No.11 of Old No.54 and New No.61, Korattur Village, Saidapet Taluk, Ambathur Municipality, comprised in S.No.907/5A.

3.It is the case of the petitioner that her father Chella Thangam owned the subject property measuring an extent of 1600 sq.ft. situated at Plot No.11 of Old No.54 and New No.61, Korattur Village, Saidapet Taluk, Ambathur Municipality, comprised in S.No.907/5 A; and he died intestate on 06.06.2004 leaving behind him, the petitioner and her mother as the only legal heirs. The petitioner further stated that they have road access to the said property on the north as well as southern side. While so, the respondents 3 to 5 have encroached the public road on the southern side of the petitioner's property and



put up a ladder and temporary machines thereon, thereby causing obstruction to the petitioner and others. Stating so, the petitioner made a representation dated 17.04.2018 to the second respondent requesting to remove the encroachment made by the private respondents 3 to 5, but the same was not considered. Therefore, she made another representation dated 27.11.2018 to the second respondent, which has also not been considered, till date. Finding no option, the petitioner has come up with this writ petition for the aforesaid relief.

4. Upon notice, the respondent authorities filed a detailed counter affidavit, *inter alia* stating that based on the petitioner's representations dated 17.04.2018 and 25.04.2018, the second respondent viz., Assistant Executive Engineer, Unit-19, Zone-VII, Greater Chennai Corporation along with the officials of Greater Chennai Corporation inspected the site in question and removed the encroachment on 02.05.2018 with the help of police officials; and the same was also acknowledged by the petitioner vide written statement dated 02.05.2018. Thus, according to the respondents, the encroachment has been removed. It is further stated therein that after receipt of the notice in this writ petition, the officials of the Greater Chennai Corporation again inspected the subject property and sent a letter to the sixth respondent viz., Tahsildar, Ambattur Taluk requesting to earmark the boundaries of the street at



S.No.907/5 at Korattur Village and the said report has not yet been received.

Therefore, the claim of the petitioner would be considered only after receipt of the report from the sixth respondent.

5.Such being the position, as agreed by the learned counsel appearing for all the parties, this court, without going into the merits of the case, directs the sixth respondent to act upon the communication dated 05.08.2019 and submit a report, within a period of four weeks from the date of receipt of a copy of this order. Based on the report to be submitted by the sixth respondent, the second respondent shall consider the claim of the petitioner and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to all the parties concerned, within a period of four weeks thereafter.

6.With the aforesaid directions, this writ petition stands disposed of. No costs.

[R.M.D., J.] [M.S.Q., J.]
28.03.2023

Index : Yes / No
Internet : Yes / No
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