



WEB COPY



WP No. 8540 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2023

CORAM :

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

Writ Petition No. 8540 of 2017
and
W.M.P. No. 9327 of 2017

J. Suresh

.. Petitioner

Versus

- 1.The Collector of Chennai
Office of the Collector of Chennai
Singaravellar Malligai, Kamarajar Salai
Chennai- 600 001.
- 2.Tashildhar
Mylapore Taluk, Revenue Department
Government of Tamil Nadu
- 3.M/s.Nawab Khairunnissa Begum
Sahiba Endowment and Hazrath Pappu
Masthan Dargha represented by its
Muthavalli / President Dr. G.S.M.P.Khadri
No.31, Big Street, Triplicane
Chennai – 600 005
- 4.Tamil Nadu Slum Clearance Board
represented by its Managing Director
No.5, Kamarajar Salai, Chennai- 600 005
- 5.The Chief Executive Officer
Tamil Nadu Wakf Board



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Having his Office at
No.1 Jafar Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.

.. Respondents

*(R5 impleaded as per order dated 14.09.2017
in W.M.P.No.23954 of 2017 in W.P.No.8540 of 2017)*

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the first respondent to implement the consent order passed in J2/34585/11 dated 09.12.2011 and consequential proceedings of the Assistant Commissioner of Police, Royapettah Circle, Chennai, Mylapore District, in Na.Ka.No.05/Oo.Aa/Royapettah/camp 2012 dated 10.01.2012 thereby to provide 10 feet passage in the land comprised in Survey No.1055/2 in Lloyds Road belonging to Md. Faiz Hussain, Muthavalli of Burial Ground leading from Lloyds Road to Bharathidasan Nagar on the petitioner's representations dated 13.03.2014 and 18.03.2014.

For Petitioner	:	Mr. A.P. Suryaprakasam
For RR1 & 2	:	Mr. A. Selvendran Special Government Pleader
For R3	:	Mr. Hassain Afroze
For R4	:	Mr. G. Venkatesan

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

The petitioner has come forward with this writ petition seeking to issue a Writ of Mandamus directing the first respondent to implement the consent order passed in J2/34585/11 dated 09.12.2011 and the consequential proceedings of the Assistant Commissioner of Police, Royapettah Circle, Chennai, Mylapore District, in Na.Ka.No.05/Oo.Aa/Royapettah/camp 2012 dated 10.01.2012 to provide 10 feet passage in the land comprised in Survey



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No.1055/2 in Lloyds Road belonging to Md. Faiz Hussain, Muthavalli of Burial Ground leading from Lloyds Road to Bharathidasan Nagar by considering his representations dated 13.03.2014 and 18.03.2014.

2. In the affidavit filed in support of the writ petition, it is stated by the petitioner that the land comprised in Survey No.1055/2 measuring 1 ground and 854 square feet in Llyods Road and Barbers Bridge Road, Triplicane, Krishnampet originally belonged to Janab Md. Fiaz Hussain and a major part of the land was taken over by the Tamil Nadu Slum Clearance Board where 268 tenements were constructed 40 years back. While so, the third respondent by claiming ownership over the part of the land, attempted to construct a compound wall and demolish the public toilet situated within the tenements and it was objected to by the occupants of the tenements. The third respondent also, asserting ownership over part of the land, filed WP No. 998 of 2010 before this Court seeking a direction to remove the encroachment in the land - Block No.22 R.S. No. 1055/2. By order dated 20.10.2010, this Court directed the second respondent to initiate action for removal of the encroachment from the Wakf Property, after conducting an enquiry. Even before the order dated 20.10.2010 could be complied with, a dispute erupted between the Muslims representing the third respondent on the one hand and



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the Hindus who are residing in the tenements constructed by the Tamil Nadu Slum Clearance Board. Therefore, a contempt petition No. 660 of 2011 in WP No. 998 of 2010 was filed by the third respondent alleging non-compliance of the order passed by this Court. On notice in the contempt petition, the first respondent along with the Assistant Commissioner of Police, Royapettah Range held a meeting and passed an order dated 09.12.2011 in which a direction was issued to the second respondent to convene a meeting. Accordingly, a peace committee meeting was conducted on 10.01.2012 by the second respondent in which the petitioner and the third respondent participated. During the peace committee meeting it was unanimously agreed as follows:-

(i) The 10 feet width passage from P.M. Dargah from South to North till Lloyds Road will be provided and it can be used by the residents of the Slum Clearance Board tenements for their daily needs.

(ii) The people residing in Bharathidasan Nagar shall not carry the dead bodies and god processions through this passage

(iii) A wall would be constructed enclosing the P.M. Dargah and the Dargah shall be kept in clean and divine manner.

(iv) No vehicle would be parked in the 10 feet width passage and the violators have to be prosecuted.



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3. According to the petitioner, contrary to the agreement reached with the third respondent in the peace committee meeting held on 10.01.2012, the third respondent completely closed the public latrine and sewerage main pipe line of the slum Clearance Board on 09.03.2014 and caused immense hardship to the residents of Bharathidasan Nagar. Therefore, the President and General Public of P.M. Darga Podu Nala Mandram submitted representations on 13.03.2014 and 18.03.2014, which was signed by the residents, including the petitioner, to the respondents 1 and 2, but no action has been taken thereof. Hence, the petitioner has come forward with this writ petition.

4. Today, when the writ petition is taken up for consideration, the learned counsel for the petitioner submitted that it would suffice, if a direction is given to the respondents 1 and 2 to pass orders on the representations dated 13.03.2014 and 18.03.2014, within a time frame to be stipulated by this Court, for which, the learned Special Government Pleader appearing for the respondents 1 and 2, has no serious objection.

5. In view of the limited relief sought for by the petitioner, this court without going into the merits of the case, directs the second respondent to consider the petitioner's representations dated 13.03.2014 and 18.03.2014, if



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not considered earlier, 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 eight weeks from the date of receipt of a copy of this order.

6. With the aforesaid direction, this writ petition stands disposed of.
No costs. Connected W.M.P. is closed.

[R.M.D., J] [M.S.Q., J]
07.03.2023

nsd/rsh

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation : Yes / No



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To

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