



W.A. No. 2534 of 2022 and W.P. Nos. 32845 and 34521 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.08.2023

PRONOUNCED ON : 07.11.2023

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.A. No. 2534 of 2022

and

W.P. Nos. 32845 and 34521 of 2022

W.A. No. 2534 of 2022

Anna Enclave Residents Welfare Association
Rep. by its Secretary and Authorized Signatory.
Mr. K.S. Raja,
No.2/168E East Coast Road,
Injambakkam,
Chennai 600 115.

... Appellant / Petitioner

Vs.

1. State of Tamil Nadu
Rep. by its Secretary,
Municipal Administration Department,
Fort St. George Chennai 600 009.
2. Corporation of Madras
Rep. by its Commissioner,
Rippon Building
Chennai 600 003.
3. Zonal Officer
Corporation of Madras,



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W.A. No. 2534 of 2022 and W.P. Nos. 32845 and 34521 of .



Zone 15
Shollinganallur
Chennai 600 119.

4. The Executive Engineer,
Corporation of Madras,
Zone 15
Shollinganallur
Chennai 600 119.

5. The Inspector of Police (J8),
Neelankarai Police Station,
East Coast Road,
Chennai 600 115.

6. Radiance Reality Developers India Ltd.,
Rep. By its Managing Director,
1st Floor, 33ft Road,
Guindy,
Chennai 600 032.

...Respondents / Respondents

Prayer: Writ Appeal as against the order dated 09.11.2022 passed in
W.P. No. 11801 of 2022.

For Appellant :: Mr. G. Vijay Anand

For R1 and R5 :: Mrs. V. Yamuna Devi,
Special Government Pleader

For R2 to R4 :: Mr. A. S. Ragul Adhithya
For M/s. P.T. Ramadevi, Standing Counsel

For R6 :: Mr. N.L. Rajah, Senior Counsel
For Mr. E. Jayasankar



W.A. No. 2534 of 2022 and W.P. Nos. 32845 and 34521 of .

W.P. No. 32845 of 2022

Mrs. Veena

... Petitioner

Vs.

1. State of Tamil Nadu
Rep. by its Secretary,
Municipal Administration Department,
Fort St. George Chennai 600 009.
2. Corporation of Madras
Rep. by its Commissioner,
Rippon Building
Chennai 600 003.
3. Zonal Officer
Corporation of Madras,
Zone 15
Sholinganallur
Chennai 600 119.
4. The Executive Engineer,
Corporation of Madras,
Zone 15
Sholinganallur
Chennai 600 119.
5. The Inspector of Police (J8),
Neelankarai Police Station,
East Coast Road,
Chennai 600 115.
6. Radiance Reality Developers India Ltd.,
Rep. By its Managing Director,
1st Floor, 33ft Road,
Guindy,
Chennai 600 032.

...Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of **CERTIORIFIED MANADAMUS** calling for the records of the 3rd Respondent in proceedings in Letter No.Z.O.XVC.No.B3/02547/2021, dated 07.08.2021 and **QUASH** the same, since the 3rd Respondent therein had erroneously classified the Petitioner's Private road within "Anna Enclave" Gated Unit as Public Road and direct the Respondents 1 to 6 herein not to interfere with the Petitioner's right over the property situated in "Anna Enclave" Gated community area situated at S.Nos .138/2 to 7, 139, 140, 141/1, 142/1,2, 144/1A,1B,2, 3PT, 6 to 10, 145, 147, 148/2, 149, 150, 151, 152, 153, 154/1,2,4, 240/3, 241, 242/1,2 of Injambakkam Village, East Coast Road, Chennai - 600 115.

For Petitioner :: Mr. G. Vijay Anand
For R1 and R5 :: Mrs. V. Yamuna Devi,
Special Government Pleader
For R2 to R4 :: Mr. A. S. Ragul Adhithya
For M/s. P.T. Ramadevi, Standing Counsel
For R6 :: Mr. N.L. Rajah, Senior Counsel
For Mr. E. Jayasankar

W.P. No. 34521 of 2022

M/s. Radiance Realty Developers India Ltd.,
Rep. By its Authorized Representative,
Mr. K. Kannadasan,
1st Floor, Old No.100, New No.111,
33 Feet Road, Anna Salai,
Guindy, Chennai - 600 032.

... Petitioner

Vs.



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1. The Principal Secretary/ Commissioner,
Greater Chennai Corporation,
Rippon Building
Chennai - 600 003.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
'Thalamuthu - Natarajan Maaligai',
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
3. The Zonal Officer
Corporation of Madras,
Zone 15,
Shollinganallur
Chennai - 600 119.
4. The Executive Engineer,
Corporation of Madras,
Zone 15
Shollinganallur,
Chennai - 600 119.
5. The Inspector of Police (J8),
Neelankarai Police Station,
East Coast Road,
Chennai 600 115.
6. Anna Enclave Residents Welfare Association
Rep. by its Secretary and Authorized Signatory.
Mr. K.S. Raja,
No.2/168E, East Coast Road,
Injambakkam,
Chennai - 600 115.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
for issuance of a writ or order or direction or any other writ in the nature of a



W.A. No. 2534 of 2022 and W.P. Nos. 32845 and 34521 of

'Mandamus', directing the Respondents 1 to 4, to act on the petitioner's representation dated 19.11.2021, within a time frame fixed by this Hon'ble Court.

For Petitioner	::	Mr. N.L. Rajah, Senior Advocate For Mr. S. Ashok Kumar
For R1, R3 & R4	::	Mr. A. S. Ragul Adhithya For M/s. P.T. Ramadevi, Standing Counsel
For R2	::	Mr. C. Manoharan
For R5	::	Mrs. V. Yamuna Devi, Special Government Pleader
For R6	::	Mr. G. Vijay Anand

J U D G M E N T

(Delivered by K. Rajasekar, J.)

The issue involved in this Writ Appeal and Writ Petitions are related to classification of roads situated in the Gated Community under the name and style “Anna Enclave” at East Coast Road, Injambakkam, Chennai-600 115 as a public road or not. Hence all the matters have been taken up together with the consent of the parties and hereby common Order is passed.

2. The brief facts leading to filing of Appeal and Writ petitions are as follows:



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3. The appellant in W.A. No. 2534 of 2022 is the Anna Enclave Residents Welfare Association (Association hereafter). Its members are owning Farm house plots at 'Anna Enclave', Injambakkam, East Coast Road in the out-skirts of the Chennai city. The objective of the Association is to safeguard the interest of the property owners within Anna Enclave Gated Community Unit. On 16.01.1992, by written agreement, the members of the Association and others have created a Gated Farm House sites with private road and pathways and the unit is named as 'Anna Enclave'. It consists of 90 units of Farm sites to the total extent of 25 acres, which was also surrounded by a compound wall. Subsequently, village of Injambakkam and other surrounding areas have been included under the Greater Chennai Corporation.

4. In the year 2021, one of the resident of the petitioner's Association, Mrs. Saraswathi Bhai applied for regularization of the unapproved plots in the Survey No.742/7A1B, Injambakkam Village, Plot No.46 of Anna Enclave, Chennai on 12.10.2021. Similarly some of the members have also approached the Greater Chennai Corporation for regularization of their unapproved buildings and plots and seeking planning permission for construction of buildings. Based on the request of the members of the Association, the regularization of the individual plots was Ordered



under Regularization of Unapproved and Layout Rules 2017 u/s. 113 R/w. section 122 of the Tamil Nadu Town and Country Planning Act, 1971 and also as per G.O.(Ms).No.78, notified by Housing and Urban Development Department, dated 04.05.2017 and G.O.(Ms). No.172, Housing and Urban Development Department, dated 13.10.2017.

5. As per the proceedings dated 01.11.2018, the Member Secretary of the Chennai Metropolitan Development Authority (CMDA hereafter) has regularized the layout structure of unapproved plots of Anna Enclave, based on the application submitted by one Suren Prabu. The Chennai Metropolitan Development Authority has directed the Greater Chennai Corporation to regularize each individual plots in principle layout framework viz., Anna Enclave of Injambakkam Village after collecting necessary charges and conditions. Based on this, regularization layout framework, the buildings situated in Anna Enclave were also regularized. Thereafter, the Corporation collected the development charges from the plot owners, who have approached the corporation for regularization and the funds were used for providing amenities and infrastructure facilities. Thereafter, the Corporation has laid road, fixed street lights and the same are being maintained by the Corporation. The Corporation is also collecting garbage by deputing staff on daily basis and the Association or its members have never objected to avail these facilities.



During the time of flood, the Corporation has taken care of the flood mitigation activities inside the area.

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6. At this juncture, an information, dated 07.08.2021 under Right To Information Act, 2005 was furnished to one A.V. Sugumar for the question raised by him that whether the roads situated in the layout of Anna Enclave is a public road or a private road, and the answer given was that, the roads situated inside Anna Enclave is a public road and maintained by the Greater Chennai Corporation. This information was given by the Public Information Officer/ Executive Engineer, Zone -15, Sollinganallur. Based on this information, the sixth respondent, who was developer of the property situated adjacent to the Anna Enclave has made a request to the Zonal Officer to remove a portion of the wall, which was blocking the internal road connecting from Injambakkam main road to the road situated in Survey No. 141/2 – Government Poramboke Road. Based on his representation, the Corporation has taken steps to remove the portion of the compound wall of Anna Enclave, which prevents the access to the road situated in 141/2 to the East Coast Road via road in the Anna Enclave lay out.

7. This prompted the Association to file a Writ Petition to quash the information submitted under the Right To Information Act, 2005 on the ground that classification of roads in Anna Enclave as a public roads is illegal.



The Writ Petition was dismissed by the learned Single Judge rejecting the case of the Association and aggrieved over the same, the Association has filed this Writ Appeal. After dismissal of the Writ Petition filed by the Association, one of the members of the Association in her individual capacity has filed a Writ Petition in W.P. No. 32845 of 2022, seeking the very same relief of quashing the information given under Right To Information Act, 2005 dated 07.08.2021.

8. The sixth respondent, who is one of the developer of the adjacent lands of the Anna Enclave, is also impleaded as the sixth respondent in the Writ Petition filed by the Association and sixth respondent filed a separate Writ Petition seeking mandamus directing the Authorities to act on his representation dated 19.11.2021. In the representation, it is prayed for access to the road from East Coast Road to its property through the roads in the Anna Enclave layout after removing the compound walls.

9. Mr. G. Vijay Anand, the learned counsel, who is appearing for the Association would submit that the roads in the Anna Enclave are the private roads, which were laid for the purpose of easy access to the farm house sites, which was created as per the private agreement entered between the individuals. The right to hold the property enshrined under Article 300-A



could not be taken away by the Corporation by declaring the private road as a public road. Even though, the Corporation was permitted to maintain the street lights and collecting the garbage from the street, that alone is not sufficient to term the private road into a public road. The sixth respondent by influencing the Officials including the Police has demolished the compound walls of Anna Enclave and created an access to his property from the East Coast Road through the roads inside the Anna Enclave.

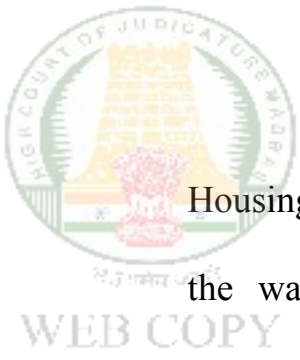
10. He further submitted that, various complaints including police complaint lodged by the Association has not been considered by the Authorities. Since, the Authorities have also relied on the information given under the Right to Information Act; the Association has come forward with the Writ Petition to quash the information impugned herein. The Association or the land owners have never handed over the streets either to the erstwhile Panchayat or to the Corporation, hence, the roads inside the Anna Enclave layout could not be termed as public road and prays to quash the information given under Right to Information Act.

11. The learned counsel has also submitted that the Writ petition is dismissed on technical ground that the writ petition filed by the Association



could not be maintainable and the same is not proper, against the settled principle of law laid down by the Hon'ble Apex Court in ***Akhil Bharatiya Soshit Karamchari Sangh (Railway) vs. Union of India and Others [1981 (1) SCC 246***. He also relied on recent judgment of Apex Court in ***SLP (C) Dairy No.13202 of 2020, Sukh Datt Ratra vs. State of Himachal Pradesh, [2023 (3) SCC 47]***, to strengthen his arguments that dispossession of the private property without due process of law is violative of both Human rights and Constitutional rights under Article 300-A. He also relied on the Judgment reported in ***I.L.R. Volume XX5, 1901 in Sundaram Iyyer vs. Municipal Council*** and contended that vesting of the street in favour of Municipal Council Authority does not transfer the rights of the owner in the site or the soil in which the street exists.

12. The learned counsel appearing for the Corporation submits that originally the Injambakkam Village was not part of the Chennai Corporation and it was under the control of the Injambakkam Panchayat. Subsequently, in the year 2011, when the Chennai Corporation was expanded, the administration of the Injambakkam Panchayat Union was taken over by the Greater Chennai Corporation on 13.10.2011. In the year 2017, the Government of Tamil Nadu has issued a Government Order in G.O.Ms.No.78,



Housing and Urban Development Department, dated 04.07.2017, which paved the way for regularizing the unapproved plots and layouts as per the provisions of Tamil Nadu Town and Country Planning Act, 1971 and an amendment was also issued as per G.O.No.112 of the Housing and Urban Development Department, dated 13.10.2017, whereby the unapproved layouts shall be regularized 'as is where is' basis and all the existing roads in the unapproved layouts shall be deemed to have been vested with the local Authority. As per the application submitted by one T. Suren Prabu, the entire layout has been taken for regularization and Chennai Metropolitan Development Authority has given, in-principle approval, for the layout framework with direction to the Greater Chennai Corporation to regularize each individual plots after collecting necessary charges with conditions. Hence, as per the regularization, the roads have to be treated as public roads and the residents of the layout are not entitled to claim the streets as a private street and not entitled to restrict the movement of the General Public.

13. The learned counsel of Corporation further reiterated that, the Anna Enclave layout even though, it is classified as farm houses, it was an unapproved layout, hence, as per the conditions laid down, while granting regularization of layout framework, the streets in the Anna Enclave is to be



treated as public and vested with the local Authority, hence, the roads in the Anna Enclave are not private road but are public road. The learned counsel also further submitted that as per G.O.Ms.No.18 of the Municipal Administration and Water supply Department, dated 04.02.2019, that if the Association want to make a new private road, then they have to approach the Commissioner of Chennai Corporation u/s. 216 of the Chennai Municipal Corporation Act and to convert the same as a private street and prays to dismiss the petition.

14. The learned counsel for the sixth respondent would submit that since the Association has blocked the pathway situated in survey no. 142/2 of Injambakkam Village, which is classified as Government Poramboke Road, they have requested the Authorities to remove the compound wall of the Anna Enclave. Hence, their grievance is genuine and even though, they are intended to develop the adjacent property and if they are allowed to use the road passing through the Anna Enclave, it will not only help them as well as it will help general public. The learned counsel further submitted since the road passing through the Anna Enclave are public roads, no one has the right to block the public road that they have not indulged in any illegal act of removing the compound wall and the same was removed by the public, who intend to



access the said road, hence, prays to dismiss this appeal and the Writ Petition filed seeking quashing of the information submitted by the Public Information Officer under RTI Act.

We have considered the submissions made on both sides and perused the records.

15. Admittedly, in the year 2018, the Chennai Metropolitan Development Authority has issued a layout framework regularization proceedings in Letter No.1635 of 2018, dated 01.01.2018 based on the regularization application submitted by one T. Suren Prabu. This application was submitted for regularization of Layout framework, which was numbered as PTD/LO/(Regularization 2017)No.2370/2018, dated 01.11.2018. On perusal of the proceedings, it shows that this application for approval layout framework was received, as per the regularization scheme issued by the Government as per the G.O.(Ms).No.78, Housing and Urban Development Department, dated 04.05.2017 G.O.(Ms). No.172, Housing and Urban Development Department, dated 13.10.2017 for regularization of the unapproved plots and layouts in the State of Tamil Nadu. This application for approving and regularization of the layout was considered by the CMDA after considering the various circumstances. This approved layout framework is concerned with the following Survey Nos.138/2 to 7, 139, 140, 141/1,



142/1,2, 144/1A,1B,2, 3PT, 6 to 10, 145, 147, 148/2, 149, 150, 151, 152, 153, 154/1,2,4, 240/3, 241, 242/1,2 at Injambakkam Village of the Greater Chennai Corporation.

16. This proceeding of the CMDA, shows that the entire area of the Anna Enclave have been regularized and declared as an approved layout. The CMDA also directed the Greater Chennai Corporation to regularize the individual plots situated in the approved layout framework after receiving the necessary fees including the development charges. This proceeding contains specific clause in the paragraph no.5, which reads as follows:

“The GCC has to ensure that the roads/ Open Space Reservation (OSR) lies within this in principle approved layout framework are be public and vested with them legally before regularization of individual plot in this layout framework as per the Government orders in the reference 1st and 2nd cited. And also roads shall be taken over suo-motu for maintenance under the appropriate provisions of the local bodies Acts and Rules made there under.”

17. By taking advantage of the regularization of the layout framework, by the CMDA, one Saraswathy Bhai approached the Greater Chennai Corporation for regularizing of her building which is situated in plot no.46 of Anna Enclave and accordingly, the regularization Order were also



passed for regularization of the building. In the sale deed of the Writ petitioner namely Veena, it is specifically recited in description the property that she has purchased plot nos. 8A, 9A and 10 in the layout known as Anna Enclave, originally comprised in survey nos.142/1 and 152/1 and currently comprised in survey nos. 151/1E and 152/1F situated in Injambakkam village, Kanchipuram district (formally Saidapet Taluk, Chennai M.G.R. District) regularized by the Chennai Metropolitan Development Authority, vide its permit no. RP/LO/157/2004 measuring a total extent of 18,500 sq.ft. was purchased as a subject property, this shows that this property was also regularized by the Chennai Metropolitan Development Authority and it is an approved layout as claimed by them, even though the materials placed on record shows that CMDA, regularized the entire layout framework situated at Anna Enclave, only in the year 2018.

18. The above facts have clinchingly shows that the Association was very well aware that for regularization of the layout framework of Anna Enclave was requested before the Chennai Metropolitan Development Authority and subsequently, the same was regularized. They are not entitled to claim that they were not aware about the Government Orders issued, which contains various clauses relating to effect of regularization and the



consequences of non regularization.

19. The G.O.(Ms).No.78, Housing and Urban Development Department, dated 04.05.2017 provides the effect of regularization in paragraph no. 8 is stated as follows:

“Plots regularized under these rules shall be deemed to be regularized for residential usage irrespective of the land use zone in the development plans concerned.”

20. In the amending G.O.(Ms).NO.172, dated 13.10.2017 for rule 8, the following rule shall be substituted, namely:

“8. Effect of regularisation:

(1)Plots under earlier regularization schemes implemented by the Government shall be deemed to be regularized for residential usage irrespective of the land use zone in the development plans concerned. Further, the unapproved layout or sub-divisions formed,-

*(i) prior to 05.08.1975 in Chennai Metropolitan Area;
or*

(ii) prior to 29.11.1972 in rural areas and prior to 01.01.1980 in urban areas outside the Chennai Metropolitan Area, shall be deemed to have been approved. The roads and Open Space Reservation area, if any, in such layout shall be deemed to have been vested with the concerned



local authority.”;

(2) *All the plots in unauthorised layout/ sub-divisions made from-*

- a) 05.08.1975 to 20.10.2016 within the Chennai Metropolitan Area;
- b) 29.11.1972 to 20.10.2016 in rural areas outside the Chennai Metropolitan Area; and
- c) 01.01.1980 to 20.10.2016 in respect of urban areas outside the Chennai Metropolitan Area,

Shall be eligible for regularization under this scheme.”;

21. The consequence of non-regularization has been stated in the paragraph no. 15 of the same G.O., as it reads as follows:-

Consequences of non-regularisation:- *Where no regularization is ordered under these rules for an unapproved plot or layout; then-*

- (a) *no electricity, water supply, drainage and sewerage connections shall be extended to such unapproved plot or layout;*
- (b) *such unapproved plot or layout shall not be registered under the Registration Act, 1908 (Central Act 9 of 1908) by the Registration Department; and*
- (c) *No building approval shall be given by the authorities concerned for such unapproved plot or layout.*

In order to give effect to the consequences indicated



above, the Departments concerned shall make necessary amendments in their respective Acts.”

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22. As stated in the paragraph no. 18 of the amending G.O., the effect of regularization is that the road and open spaces in the reservation area, if any in the layout shall be deemed to have been vested with the concerned Local Authority.

23. Hon'ble Apex Court in ***Chetra Vashist vs Delhi Municipal [1995 (1) SCC 47]***, has considered the rights of the Delhi Municipal Corporation to impose condition that the open space for parks , schools to be transferred to the favour of Corporation with free of cost and after considering various provisions of the Delhi Municipal Corporation Act, observed in paragraph no. 6 as follows:

“6. Reserving any site for any street, open space, park, school etc. in a layout plan is normally a public purpose as it is inherent in such reservation that it shall be used by the public in general. The effect of such reservation is that the owner ceases to be a legal owner of the land in dispute and he holds the land for the benefit of the society or the public in general. It may result in creating an obligation in nature of trust and may preclude the owner from transferring or selling his interest in it. It may be true as held by the High Court that the interest which is left in the owner is a residuary interest which may be nothing more than a right to hold this land in trust for the specific purpose specified by the coloniser in the sanctioned layout



plan. But the question is, does it entitle the Corporation to claim that the land so specified should be transferred to the authority free of cost. That is not made out from any provision in the Act or on any principle of law. The Corporation by virtue of the land specified as open space may get a right as a custodian of public interest to manage it in the interest of the society in general. But the right to manage as a local body is not the same thing as to claim transfer of the property to itself. The effect of transfer of the property is that the transferor ceases to be owner of it and the ownership stands transferred to the person in whose favour it is transferred. The resolution of the Committee to transfer land in the colony for park and school was an order for transfer without there being any sanction for the same in law.”

24. In view of the above, reserving any site for street, open space, park, school etc., in a layout land is normally for the public purpose and such reservation is to be used by the public in general. The Corporation by virtue of the land specified as an open space may get a right as a custodian of public interest to manage it in the interest of the public in general but the right to manage as a local body is not the same as to claim transfer of property to itself. Further, it has held that the Corporation is not entitled to demand transfer of land in its favour with free of cost.

25. This Court in ***The Commissioner of Panruti Municipal vs. Kannika Parameswari Amman Temple, [1996 (2) LW 35]***, in paragraph no.13 has observed that the Municipality therein as no right to pass



obstruction even though, there is vesting of public road in it. This Court has also followed the decision reported in **1981-II M.L.J. 336=94 L.W.697 Govinda Asari Vs. Kanchipuram Municipal (Represented by its Commissioner)** and it was held thus:

"The right of the owner of the roadside property to have access to the road is a totally different right from the public right of passing and re-passing along the highway and the right has been recognised in a number of decisions.

An owner of land which runs right up to a public highway is entitled to access to that highway from his land and that is so whether he is the presumptive owner of the soil of the highway or not.

The mere vesting of a public street in the municipal council does not confer any power on the municipal council to treat it as a private property of the municipality, and the power to close any public street temporarily or permanently, does not imply a power to cause obstruction to the use of the public street by the owners adjacent to the same.

The owners of houses abutting on a public street have right of access to and from the public street, and if anything is done by the municipality to interfere with the rights of such owners, the owners have an actionable claim.

The vesting of the public street in the municipality in the instant case is only for the purpose of maintaining it properly as a public street. It is not entitled to put up any structure along the public street to prevent the owner of properties abutting the same from having access to and from the public street."

26. The observation made above by the Apex Court and this Court



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shows that, even though, the corporation has no authority to demand to transfer of land in favour of it or to treat it as private properties of Corporation, the roads shall be vested in favour of municipal corporation is for the purpose of enabling it to maintain as a public street. Hence, vesting of property shall not mean that the roads are to be treated as private, and it only mean that, Municipal Corporation shall treat the roads as public roads and owners of houses abutting the street shall have access to and from the public roads. The corporation shall be the custodian of the road and manage it in the intent of public in general.

27. The judgment of the Hon'ble Apex Court in ***Sukh Dutt Ratra vs State of Himachal Pradesh [SLP (C) Diary No.13202 of 2020]*** case cited supra has held that dis-possession of the property without due process of law is violative of Human Right and Constitutional Right under Article 300A. In the case in hand, admittedly, the layout framework of the Anna Enclave was regularized by the Chennai Metropolitan Development Authority as per the scheme of G.O.(Ms).No.78, notified by Housing and Urban Development Department, dated 04.05.2017 and G.O.(Ms).No.172, Housing and Urban Development Department, dated 13.10.2017. As per the G.O., the streets have been vested with the Corporation. Subsequently, the members of the Association and plot owners have also availed the benefits of this



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regularization accepting the conditions imposed therein and their buildings have also been approved by the Greater Chennai Corporation. Thereafter, the streets and street lights in the roads were also placed under the maintenance of the Corporation. In the year 2022, the Corporation has also laid road by incurring a huge cost of Rs.62,12,000/-. Once the road were placed under the hands of the Corporation for maintenance, the General public are entitled to use the same as held by the Apex Court in the judgments cited supra and the residents or the Association of Anna Enclave is not entitled to prevent any person from using or entering the roads lain in their Enclave. After availing all the benefits granted under the regularization schemes issued by the Government, now, they want to deny the consequential benefits granted to the General public as well as other residents, who are entitled to get the same based on the very same Government Orders issued for regularization. The consequence of non-regularization is that, the residents are not entitled to get any electricity, water supply, drainage or sewage connection and no building approval will be given by the concerned Authorities. Based on the approval granted by the concerned Authority, all the benefits have been availed by the residents and they may not be interested to lose all those benefits received by them.

28. In paragraph No. 5 of the regularization Order of the layout



29. As stated in earlier paragraph that the Association and residents of the Anna Enclave have agreed to conditions of the scheme and they have applied for approval of their individual plots based on the regularization scheme and after availing various benefits, when the roads were used by the public, more particularly the neighbors started to demand their access in the roads, which are made public, immediately, the residents and Association of the Anna Enclave are trying to change the game and contend that the roads have been only vested with the Corporation and it is not the public road. This Court is of the view that the residents of the Anna Enclave and Association is not entitled to “Approbate and re-probate” the Orders of the Chennai Metropolitan Development Authority. Further, as by their conduct of accepting the various benefits availed by the Orders of the Chennai



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Metropolitan Development Authority, they have estopped from claiming that the roads are only private roads. Hence, the contention of the Association and the residents of the Anna Enclave that the roads shall only to be treated as private and they are entitled to restrict the movement of the neighbors and general public by constructing a compound wall, is hereby rejected.

30. That apart, either the Association or its members have not challenged the Regularization Order of the Chennai Metropolitan Development Authority and without challenging the same, indirectly they have challenged information given under the Right To Information Act by the Public Information Officer of the Corporation. Admittedly, the Chennai Metropolitan Development Authority has passed an Order, dated 01.11.2018, with direction to Greater Chennai Corporation to treat the roads as public roads and also to take every step for its maintenance. Based on the above direction, the Corporation also laid the road inside the layout of the Anna Enclave and maintaining the same. It is mandate on the part of the public Information Officer to give reply raised under the Right To Information Act. Since the Corporation is spending the public money for the above residential area and the 'Anna Enclave' plots and roads have been regularized, the Officer has to give reply based on the records, which are available before him. As per the records available before him, the road in the layout of Anna Enclave has been



converted into a public road and they are already vested with the Corporation, hence, naturally the Information Officer cannot give different answer.

31. Indirectly by challenging this information, the Association and the residents of the Anna Enclave are trying to avoid the challenge to be made on the Regularization Order of CMDA, which specifically directs the Corporation to make roads as public and to be vested with the Corporation. This Court is of the view that without challenging the Order of the Chennai Metropolitan Development Authority, dated 01.11.2018, challenge being made on the information given under Right To Information Act by the Public Information Officer based on the record placed before him is not proper and misconceived. As far as the action of the Public Information Officer is concerned, it is the duty on his part to give information based on the record available before him, hence, the information given by the Public Information Officer under the Right To Information Act is perfectly proper and this Court finds no infirmity in such information furnished by the Public Information Officer.

32. It is further argued by the Association that some Officials have forcibly demolished the compound wall with a view to give access to the neighboring land owners to the East Coast Road in spite of their protest. The sixth respondent has also colluded with them for his own benefit and demolished the compound wall. This Court is not inclined to appreciate the



said contention as discussed in the earlier paragraph that the General Public, who are using the adjacent road i.e, Government Poramboke road entitled to access the public roads in the layout of the Anna Enclave and residents of Anna Enclave have no right to prevent them by constructing a compound wall. The removal of wall is perfectly proper, and no one is having the right to prevent the general public from using the public road. Since the contesting respondents have denied the allegation of forcible demolition of the compound wall, this Court is not inclined to delve into the disputed facts of the case, to decide the persons, who have demolished the compound wall.

33. As regards the maintainability of Writ Petition is concerned, since, we have dealt with the case on merits of claim of Association and individual resident has also challenged the impugned information separately, we are not inclined to consider the ground of maintainability of Writ petition of the Association herein and the issue as to whether the Association can maintained a Writ Petition or not is left open, as we have decided the issue on merits.

34. Admittedly, the public are now using the road and the road in the layout of the Anna Enclave have been accessed by the neighboring land owners to reach the East Coast Road, hence, this Court is of the view that the



W.A. No. 2534 of 2022 and W.P. Nos. 32845 and 34521 of .

writ petitioners – Association and the residents of the Anna Enclave are not entitled for any relief in their writ appeal or in the writ petition.

35. Similarly, the Writ petition filed by the sixth respondent requires no Order since, the compound wall, which had restricted the movement of general public through the roads in the layout of Anna Enclave has already been removed, the general public are accessing the roads. Accordingly, no further Order directing the Authorities to provide access the roads of the Anna Enclave needs to be passed herein. The Corporation is directed to maintain the roads and open spaces and continue to provide access to the general public.

36. In the result, the writ appeal of the Association and writ petition of the resident of the Anna Enclave is dismissed and the writ petition filed by the sixth respondent is disposed off, with above observation. No costs.

(S.V.N.J.) (K.R.S.J.)
07.11.2023

stn
Index: Yes/No
Speaking Order: Yes/No
Neutral Citation Case : Yes/No



WEB COPY

1. State of Tamil Nadu
Rep. by its Secretary,
Municipal Administration Department,
Fort St. George Chennai 600 009.
2. Corporation of Madras
Rep. by its Commissioner,
Rippon Building
Chennai 600 003.
3. The Member Secretary,
Chennai Metropolitan Development Authority,
'Thalamuthu - Natarajan Maaligai',
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
4. The Zonal Officer
Corporation of Madras,
Zone 15
Sholinganallur
Chennai 600 119.
5. The Executive Engineer,
Corporation of Madras,
Zone 15
Sholinganallur
Chennai 600 119.
6. The Inspector of Police (J8),
Neelankarai Police Station,
East Coast Road,
Chennai 600 115.



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W.A. No. 2534 of 2022 and W.P. Nos. 32845 and 34521 of .

S. VAIDYANATHAN, J.
AND

K. RAJASEKAR, J.

stn

Pre-delivery Common Judgment made in
W.A. No. 2534 of 2022 and
W.P. Nos. 32845 and 34521 of 2022

07.11.2023