



WEB COPY



CRP. No. 1743 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 1743 of 2023
& CMP No. 11288 & 11289 of 2023

- 1.The corporation of Chennai,
Represented by its Commissioner,
Rippon Building,
Chennai – 600 003.
- 2.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai – 600 003.
- 3.The Assistant Executive Engineer,
Corporation of Chennai,
Zone – 10, Saidapet, Chennai – 600 015.
- 4.The Superintending Engineer,
Building Division,
Corporation of Chennai,
Amma Maligai,
Rippon Building,
Chennai – 600 003.

...Petitioners

Vs.

- 1.M.Kalyani
- 2.The state of Tamil Nadu,
Represented by its,



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Secretary to Government,
Local Bodies and Municipal Administrations,
Fort.St. George, Chennai.

3.The Secretary to Government,
State Government of Tamil Nadu,
Local Bodies and Municipal Administrations,
Fort.St.George, Chennai.

4.The District Collector,
Chennai District,
Singaravelar Malagi,
George Town, Chennai – 600 001.

5. The Divisional Revenue Officer,
Chennai District,
Singaravelar Malagi,
George Town, Chennai – 600 001.

6.The Tahsildar,
Mambalam – Guindy Taluk,
K.K.Nagar, Chennai – 600 083

7.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalmuthu Nadarajan Building,
Gandhi Irwin Salai,
Egmore, Chennai – 600 008.

8.M.Krishnamoorthy.

....Respondents

PRAYER : This petition filed under Article 227 of the Constitution of India, to set aside the order dated 24.03.2022 made in IA No. 4 of 2021 in O.S No. 123 of 2020 passed by the learned judge in IV Additional City Civil Court, Chennai.

For Petitioners : Mr.Richard Wilson
For R2 to R7 : Mr. Tamil Nidhi
Additional Government Pleader



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For R1 & R8 : Mr.R.Balachandar

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ORDER

This petition has been filed to set aside the order dated 24.03.2022 made in IA No. 4 of 2021 in O.S No. 123 of 2020 passed by the learned judge in IV Additional City Civil Court, Chennai.

2. The learned counsel for the petitioners submits that first respondent has no locust standi to seek a declaration that the B schedule property is a public road, and consequently, the first respondent has locus standi to claim that a community hall should not be constructed over the Schedule B property. Further, Court below failed to note that the property is owned by the government and the hall is been constructed in the open yard which is between the first respondent property and the road and not on the road as claimed by the first respondent. Further, the first respondent has entry from the South side of her property and hence she is not entitled to claim a right of easement by necessity. Further, the Court below failed to considered that the space left by the petitioner herein with an extent of 8 feet between the community hall and the first respondent's property which makes it unreasonable for the first respondent to state that there is no pathway



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available to her to ingress and egress to her schedule A property. Hence, prays to allow this petition.

3. The learned counsel for the respondent submit that T.S No. 26 was classified as street in which the revision petitioner has no right to put up the construction but they started to put up community hall due to which the respondent is not able to reach the V.V. Kovil street thereby her right of ingress and egress fundamental right was prevented by them. Hence, the prayer sought by the revision petitioner as such is not maintainable and he prayed to dismiss this petition as no merits.

4. Considering the fact that as per the Town survey Register disputed property in TS No. 26 was classified as Sarkar Poramboke gram Natham. Admittedly, as per the FMB plan there is open yard in T.S No. 26 and V.V. Kovil Street is on its south side, Subramania Samy Kovil Street on Eastern side, Ration shop on the Western Side. Therefore, disputed property in T.S No. 26 is existed between the first respondent's property and V.V. Koil Street, Hence, the entire extent of the property in T.S No. 26 cannot be deemed as V.V Kovil Street as claimed by the respondents herein. Further, the learned counsel for petitioner submits that the plaintiff is put up construction in her property by encroaching 8 feet in front portion of the



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lane belong to the Corporation, thereby corporation issued notice for removal of encroachment against which the first respondent has not filed any appeal challenged that notice. On seeing fact that the plaintiff/first respondent herein encroached the front portion of the public road and put up construction for which she is not entitled. Further, as per the commissioner report there is near about 300 feet lane in between her property and the disputed property hence she cannot claim right over the disputed property in T.S No. 26 which is classified as Sarkar Poramboke as per Town Survey Register, to that effect, the observation made by this Court relied by the learned counsel for the petitioners in W.P No. 25608 of 2023, R.A.V. Kovil Annayya Charities Vs. The District Collector, Tiruvallur and others.,

21. It would be clear that the Gramanatham or Natham Poramboke can be classified into three types. Firstly, the Natham which are inhabited by the villagers by putting up their house or being their Pilakadai or kollai etc.,

which is their absolute property and the Government does not have any right, title or interest in the same. The second portion of the Gramanatham or those portions which may be used for communal purposes, such as street, thrashing floors etc. Once they are used for communal purposes, by virtue of Section 2 of the Act, they become the Government interest lands and as such,



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have to be termed as the other types of Poramboke, in which, no individuals can claim any title and any encroachment can be removed by invoking the provisions of the Act. The third type is the unoccupied portion of the Gramanatham land, in which the right is vested with the Government to regulate its occupation. The Government has the right to assign the occupied portion by ensuring the condition of residence eligibility etc., and it is only in this context, the Revenue standing orders, enabling the Government to impose conditions, assign only 3 cent lies.

5. The above judgment is squarely applicable to the fact of the case.

Hence, the order passed by the IV Additional City Civil Court, Chennai, in IA No. 4 of 2021 in O.S No. 123 of 2020 is set aside.

6. In the result, this civil Revision petition is allowed of. No cost.

08.12.2023

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Note: Issue order copy on 19.12.2023.

To

1. The IV Additional City Civil Court, Chennai.



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T.V.THAMILSELVI,J.

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