



W.P.No.1511 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.1511 of 2021

and

W.M.P.Nos. 1707 & 1710 of 2021

1.M.Manickam
2.M.Balasubramanian
3.M.Srinivaasan
4.Karunambal Vanavarayar

.... Petitioners

Vs

1.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai 600 003.

2.The Zonal Officer
Corporation of Chennai,
Zone-13, Adyar, Chennai-600 020.

3.M/s.Raga Malika Apartments Association 'C' Block,
Rep by its President,
No.2, Jeevarathinam Nagar,
Adyar, Chennai 600 020.

4.M/s.Raga Malika Apartments Association 'A' Block
Rep by its President,
No.2, Jeevarathinam Nagar,
Adyar, Chennai 600 020.



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5.The Tahsildar,
Velachery Taluk Office,
Velachery, Chennai.

6.The Member Secretary,
The Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai.600 008.
(R5 And R6 are Suo Motu impleaded
as per Order dated 26.06.2024 in
W.P.No.1511/2021)

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the respondents 1 and 2 to maintain the 30 feet road connecting Jeevarathinam Nagar and Parameshwari Nagar as per Layout LA.No.16/73.

For Petitioner	: Mr.AL.Gandhimathi for Ms.SA.Kanmani
For R1 & R2	: Mrs.P.T.Ramadevi Standing Counsel
For R3 & R4	: Notice served
For R5	: Mr.C.Kathiravan Special Government Pleader
For R6	: Mrs.P.Veena Suresh Standing Counsel



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ORDER

This Writ Petition has been filed for a direction, directing the respondents 1 & 2 to maintain 30 feet road as per the layout approval No.16/1973.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner owned a property and developed the same through layout approval in LA.No.16/1973. As per the layout, there is a 30 feet road abutting plot No.1 to 4, providing access to the public road on the eastern side, connecting Jeevarathinam Nagar, Adyar, Chennai. The said 30 feet is common to all the owners of plot Nos.1 to 4 and no purchaser can enjoy the said road as a private property. While being so, the 3rd and 4th respondents constructed apartments in two blocks and encroachment upon the 30 feet road by parking their cars. On the complaint lodged by the petitioner, the respondents 1 & 2 issued with a notice to remove the encroachment of the 3rd and 4th respondents. The said notice was challenged in O.S.No.5998 of 2012 for a declaration.



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Subsequently, the said suit was dismissed. Thereafter, the respondents 1 & 2 removed the encroachment. However, the respondents 1 and 2 failed to maintain as a 30 feet road accessible to all. The respondents 3 & 4 also filed a suit in O.S.No.2658 of 2020 seeking a declaration that they have perfected title to the subject property by adverse possession and also for permanent injunction. The said suit is pending without any interim order.

4. A perusal of the counter filed by the respondents 1 & 2 and also the submissions made by the learned Standing Counsel appearing for the respondents 1 & 2 reveals that as per the layout No.16/1973 there is a 30 feet public road has been earmarked, connecting Jeevarathinam Nagar and Parameshwari Nagar between the two plots. The width of the plots is marked as 135 feet each on the western side of the plots and 136 ½ feet each on the eastern side of the plot which is abutting Jeevarathinam Nagar Main Road. Only because of the pendency of the suit, the respondents 1 & 2 were not able to take any action.



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5. A perusal of the counter filed by the respondents 1 & 2 and the submissions of the learned Standing Counsel reveals that one M/s.P.A.Constructions constructed two blocks as per the building plan from the MMDA in C/1680/86 dated 09.04.1987 for the apartments. They have got entrance through the Parameswari Nagar side entrance. Insofar Block A & B are concerned, they have entrance from the Jeevarathinam Nagar side. They filed a suit in O.S.No.2658 of 2020 for declaration and permanent injunction and it is pending on the file of the IV Additional City Civil Court, Chennai. Though the suit is pending for adjudication, no interim order has been passed by the Civil Court as against the respondents 1 & 2. Therefore, as per the layout in L.A.No.16/1973, the road portion ,which was earmarked in the approval layout, has to be maintained as a road by the respondents 1 & 2 herein.

6. Therefore, the respondents 1 & 2 are directed to maintain the road, which was earmarked as per the layout 30 feet road, connecting Jeevarathinam Nagar and Parameshwari Nagar, subject to the out come of the Civil Suit filed by the respondents 3 and 4 herein in O.S.No.2658 of 2020 on the file of the IV Additional City Civil Court, Chennai.



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7. With the above direction, this writ petition stands

disposed of. Consequently, connected miscellaneous petitions are closed.

No costs.

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Internet : Yes

Index : Yes/No

Speaking/Non-speaking order

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To

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