



W.P.No.4464 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.02.2024

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.4464 of 2024
and W.M.P.No. 4824 of 2024

Sudha Radhakrishnan

... Petitioner

Vs

1.The Divisional Engineer,
State Highways Department,
Tambaram Sub-Division,
Saidapet, Chennai – 600 015.

2. The Assistant Divisional Engineer,
State Highways Department,
Tambaram Sub-Division,
Tambaram, Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents from further demolishing the concrete passage from the 200 feet radial road, Pallavaram to the petitioner's property comprised in Plot Nos.6,7 and 8 ad measuring an total extent of 6000 sq.ft., comprised in Survey Nos.255/9B, 255/10, 255/11B, 255/12B and 255/13 Zamin Pallavaram Village, presently Alandur Taluk, T.S.No.18A, 20A, 34/18-B2 in Block No.49, Ward No.D,



W.P.No.4464 of 2024

Jothi Colony Layout, lying within the sub-registration district of Pallavaram and to direct the respondent to not to interfere with the petitioner's peaceful possession and enjoyment of the subject property.

For Petitioner : Mr.V.Prakash
Senior Counsel
for Mr.S.Suresh Babu

For Respondents : Mr.G.Nanmaran
Special Government Pleader

ORDER

Mr.G.Nanmaran, learned Special Government Pleader accepts notice for the respondents and is armed with instructions to enable a final disposal of this Writ Petition. In fact, yesterday (22.02.2024) a mention had been made for listing of this matter, at which juncture, the petitioner was permitted to serve the respondents in order that they may obtain instructions ahead of time. Hence, by consent of both parties, the following order is passed disposing the Writ Petition, even at the stage of admission.

2. The petitioner claims to be the owner of the property in Plot Nos.6, 7 and 8 in Survey Nos.255/9B, 255/10, 255/11B, 255/12B and 255/13 Zamin Pallavaram Village, presently Alandur Taluk, T.S.No.18A, 20A, 34/18-B2 in Block No.49, Ward No.D, Jothi Colony Layout, lying within the sub-registration district of Pallavaram and Registration District of South



W.P.No.4464 of 2024

Chennai ('property'/'property in question'). The property abuts the 200 feet radial road and house as commercial building.

3. Mr.Nanmaran states that a proposal for extension of the road to the extent of 60 feet on either side including provision for drainage has been approved and the work is now on going. He would submit that the petitioner, for facilitating its business, has built ramps running on to the existing road. These ramps will have to be removed as they have been built encroaching upon the existing road, which is the subject matter of expansion.

4. It is not just the petitioner who has carried out the aforesaid modification but also other commercial establishments along that road. Thus the attempts and efforts of the respondents to remove the encroachments on the road and commence the work of expansion, are perfectly in order and within their mandate.

5. To a specific allegation that no notice was issued to the petitioner and other establishments prior to commencing of the work, Mr.Nanmaran would point out that no notice is, in fact, necessary, as the offending structures such as ramps and passages admittedly constitute encroachments upon the Highways, and hence the question of putting the petition to notice does not arise. He is right in stating so.



W.P.No.4464 of 2024

6. The difficulty faced by the petitioner is clear from the photographs circulated by Mr.Nanmaran which would show that with the removal of the ramps constructed by the petitioner there is a vast difference in height between the level of the road and the level at which the commercial establishments stand and it is to bridge this gap that the ramps and passages have been constructed.

7. It is for the petitioner as well as other commercial establishments to sit across the table with the respondents and other authorities and arrive at a remedy/resolution as to how best to bridge the gap between the road and the pavement.

8. Since various facts would have to be gone into in arriving at a resolution, and as there is nothing perse, untoward in the expansion work undertaken by the respondents, mandamus as sought for to prevent the respondents from demolishing the ramp/concrete pasage connecting the property in question and the main road cannot be granted.

9. Though by virtue of the proposed expansion work there may be some difficulties caused to the conduct of the business, the resolution of those difficulties would depend on the ensuing discussions between the parties.



W.P.No.4464 of 2024

10. Thus, the petitioner is permitted to make a representation before the respondents and such representation, if received within a period of 48 hours, shall be acted upon immediately by the respondents by hearing the petitioner and working out a solution for their grievances.

11. While the Court does not intervene with the continuance of the expansion work per se, let the peculiar problem faced by the petitioner (and other commercial establishments) with regard to the fringe of the road connecting the main road and the commercial establishments be resolved, prior to the expansion work being undertaken in those areas.

12. This Writ Petition is disposed in the aforesaid terms. No costs. Connected Miscellaneous Petition is closed.

23.02.2024

Index : Yes / No
Speaking order
Neutral citations: Yes
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Note: Registry is directed to upload this order today.



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W.P.No.4464 of 2024

DR.ANITA SUMANTH,J.

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To

- 1.The Divisional Engineer,
State Highways Department,
Tambaram Sub-Division,
Saidapet, Chennai – 600 015.
2. The Assistant Divisional Engineer,
State Highways Department,
Tambaram Sub-Division,
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W.P.No.4464 of 2024
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