



WEB COPY

WP No.6900 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05-02-2024

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

WP No.6900 of 2021

And

WMP No.7450 of 2021

P.Gyanchand

.. Petitioner

-VS-

- 1.The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-600 009.
- 2.The Chief Secretary and Revenue
Administration Commissioner,
Ezhilagam,
Chepauk,
Chennai-600 005.
- 3.The Collector,
Singaravelar Maligai,
62, Rajaji Salai,
Chennai-600 001.



4. The District Revenue Officer,
Chennai District,
62, Rajaji Salai,
4th Floor,
Chennai-600 001.

5. The Revenue Divisional Officer,
Chennai South Division,
Anna Salai,
Guindy,
Chennai-600 032.

6. The Tahsildar,
1, Old Mahabalipuram Road,
Semmanchery,
Arasankalani,
Sholinganallur,
Chennai-600 119.

7. Tamil Nadu Public Works Department,
Kamarajar Promenade,
PWD Estate,
Chepauk,
Triplicane,
Chennai-600 005.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to restore the path around the lake in Survey No.527 situated in Sholinganallur Village, Chennai which was in existence from time immemorial and also allow the petitioner to use the same to reach his land



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and declare the action of the respondents in closing the path around the lake in Survey No.527 situated in Sholinganallur Village, Chennai which was in existence from time immemorial and thereby depriving to use the same to reach their land by raising the compound wall is nothing but arbitrary, illegal, unjustified and also violation of Articles 14 and 21 of Constitution of India apart from being contrary to the well settled principles of law laid down under Easements Act, 1882.

For Petitioner : Mr.K.P.Shanthosh
For Respondents : Mr.T.Arunkumar,
Additional Government Pleader.

ORDER

The present writ petition has been filed seeking a direction to direct the respondents to restore the path around the lake in Survey No.527 situated in Sholinganallur Village, Chennai which was in existence from time immemorial and also allow the petitioner to use the same to reach his land and declare the action of the respondents in closing the path around the lake in Survey No.527 situated in Sholinganallur Village, Chennai, which was in existence from time immemorial and thereby depriving to use the same to reach their land by raising the compound wall is nothing but arbitrary,



illegal, unjustified and also violation of Articles 14 and 21 of the Constitution of India apart from being contrary to the well settled principles of law laid down under Easements Act, 1882.

2. The petitioner states that he had purchased the land in Surcey No.537/7A in the Sholinganallur Village, Chennai-600 119, on 18.10.2005. The land is bounded in North by lake and there is a path around the lake on all sides and the said path has been used as right of way and it is only way to access the land and there is no other alternate way to access the land.

3. The said land and the other adjoining land owners have from time immemorial been using the lake for irrigation purposes. The petitioner claims Easementary right against the Government by providing pathway on the lake. The petitioner further states that he is not laying any claim of exclusive right over the path and only claiming it as easement of necessity for using the path to have access to the land.

4. With reference to the claim of the petitioner, the respondents



filed counter statement and more specifically in paragraphs 3 and 7, it has been stated as under:-

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“3. It is respectfully submitted that the petitioner herein claims to have purchased the land in Survey No.537/7A of Sholinganallur Village, Chennai-600 119 lying on the Southern side of the water body in S.No.527 of Sholinganallur Village. The petitioner's land is abutting S.No.527 of Sholinganallur Village, which is purely a water body. The petitioner himself admits that nearly 100 acres of land were solely depended on this lake for irrigation purpose.

.. ..

7. As regards the averments of the petitioner set out in paras 5 to 11 of the affidavit, it is respectfully submitted that the water bodies in Chennai District are being protected and in catena of decisions, the Hon'ble High Court insisted the need of the hour to protect water bodies, water resources and water course porambokes. Moreover, there are no cultivation activities in Chennai District for several years. Chennai was a non-agricultural District for



several years. The petitioner cannot be permitted to use the water body in S.No.527 of Sholinganallur Village as passage to approach his patta land. The petitioner must have formed a road to reach his property from and out of the land purchased by him if the approach road is not provided to him by his Vendor. The petitioner is put to strict proof of the same.”

5. In respect of water body, such claims seeking Easemntary right, cannot be entertained. Therefore, the petitioner has to work out his remedy in the manner known to law before the Competent Forum.

6. With the above observations, the present writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

05-02-2024

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order



Neutral Citation : Yes/No
Svn

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