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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13-02-2024

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THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

And

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

WP No.8449 of 2019

And

WMP Nos.8977 to 8979 of 2019

- 1.Mr.S.P.Sivalingam
- 2.Mr.T.S.Vasan
- 3.Mr.C.Sudhakaran
- 4.Col.V.S.Sundaram
- 5.Mrs.A.Maria Pauline
- 6.Mrs.P.J.Lakshmi
- 7.Mr.Prakash J.Metha
- 8.Dr.D.Merriwin

.. Petitioners

-VS-

- 1.The State Represented by
The Commissioner,
Corporation of Chennai,
Rippon Building,
Periyamet,
Chennai-600 003.



2.The Commissioner,
Hindu Religious Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai-600 034.

3.The Inspector of Police,
G-3, Kilpauk Police Station,
Chetpet,
Chennai-600 031.

4.Fit Person,
Ardhanareswar Temple,
Aravamuthu Garden Street,
Egmore,
Chennai-600 008.

[R-4 amended the cause title differ as per
Court order dated 26.062019 in WMP No.17465
of 2019 in WP No.8449 of 2019]

5.Mr.Ramraj Naidu

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent to maintain Aravamudhu Garden Street, Egmore, Chennai-600 008 as Public Road and forbear the fourth respondent from encroaching upon the road and putting up any form of unauthorised construction on the public road in Aravamudhu Garden Street, Egmore, Chennai.



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For Petitioners : Mr.T.Mohan, Senior Counsel for
Mr.V.S.Senthil Kumar

For Respondent-1 : Mr.A.Arun Babu,
Standing Counsel for Greater
Chennai Corporation.

For Respondent-2 : Mr.N.R.R.Arun Natarajan,
Special Government Pleader
(HR&CE)

For Respondent-3 : Mr.A.Selvendran,
Special Government Pleader.

For Respondent-4 : Mr.T.Chandrasekaran

For Respondent-5 : Mr.V.Raghavachari,
Senior Counsel for Ms.V.Srimathi.

ORDER

The Writ of Mandamus has been instituted to direct the first respondent to maintain Aravamudhu Garden Street, Egmore, Chennai-600 008 as Public Road and forbear the fourth respondent from encroaching upon the road and putting up any form of unauthorised construction on the public road in Aravamudhu Garden Street, Egmore, Chennai.



2. It is not in dispute between the parties to the lis on hand that the subject road has been utilised as public road for long years. It is further not in dispute that the road has been maintained by Chennai Corporation all along and infrastructures and the basic amenities are provided to the residents of that locality. Ardhanareswar temple situates at the end of the road i.e., Aravamudhu Garden Street, Egmore, Chennai-600 008.

3. The contention raised on behalf of the learned Senior Counsel for the petitioners is that the entire property belonged to the temple and a portion of the property has been used as a road by the people of that locality.

4. This Court cannot decide the title in respect of the said portion of the property, which is being used as a road for many decades by the people residing there. The existence of the public road has been entered in the Extract from the Permanent Land Register and the Certificate was issued to that effect by the Competent Authority. The Corporation is maintaining the road for the benefits of the public at large.



5. The claim of the temple if any can be adjudicated in the manner known to law. However, the existing road and its usage, structure, infrastructure facilities etc., as being maintained by the Corporation, cannot be disturbed by any person. Therefore, any encroachment in the said road, namely, Aravamudhu Garden Street, Egmore, Chennai-600 008 is directed to be removed by the Corporation and the road being utilised only for the benefit of the road users and the residents of that locality, including the devotees and worshipers of Ardhanareswar Temple at Aravamudhu Garden Street, Egmore, Chennai-600 008.

6. Since the temple also claims property right to a larger extent, the Competent Authorities of the Hindu Religious and Charitable Endowments Department are empowered to initiate appropriate actions under the Hindu Religious and Charitable Endowments Act and has to resume the properties other than the road, which is being used by the people of that locality. Thus there is no impediment for the Hindu Religious and Charitable Endowments Department to initiate action for resumption of temple properties in the manner known to law.



7. However, the said street, namely, Aravamudhu Garden Street, Egmore, Chennai-600 008 even if declared as temple property, it should continue as a road for the benefit of the public and to be maintained by the Corporation of Chennai for providing infrastructure and basic amenities to the residents of that locality. Thus the Corporation of Chennai is directed to remove all the encroachments identified in the said street, namely, Aravamudhu Garden Street, Egmore, Chennai-600 008, within a period of four weeks from the date of receipt of a copy of this order, except the temple situate at the end of the street.

8. With the above directions, the present writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

(S.M.SUBRAMANIAM,J.) (K.RAJASEKAR,J.)

13-02-2024

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

Svn



To

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