



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2024

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.16953 of 2024
and
W.M.P.No.18664 of 2024

T.P. Kandan

.. Petitioner

Versus

1. The Director,
Municipal Administration and Water Supply Department,
R.A.Puram,
No.75, Santhome High road,
Chennai- 600 028.

2. The Commissioner
Tambaram City Municipal Corporation,
West Tambaram, Chennai – 600 045.

3. K. Mahalakshmi

...Respondents

Prayer: This petition is filed under article 226 of the Constitution of India to issue a writ of Mandamus directing the first respondent to



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dispose of the petitioner's Appeal dated 07.01.2023 to protect the common 2 feet dead end situated at Chellaimman Koil 4th Cross Street, Irumbuliyur, East Tambaram, Chennai- 600 059.

For Petitioner : Mr.K. Karunakaran

For Respondents : Mr.M. Venkateswaran
Special Government Pleader

ORDER

This petition is filed to seeking to issue a writ of Mandamus directing the respondents to dispose of the petitioner's Appeal dated 07.01.2023.

2. In view of the consent expressed by the learned counsel appearing for either side, this petition is taken up for final disposal.

3. The case of the petitioner is that the petitioner is the owner of the property in Plot no.9/15 to an extent of 2529 sq.ft comprised in Survey No.187 situated at No.170 Irumbuliyur Village, Tambaram Taluk.



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The third respondent herein is the adjacent land owner of the subject property who has destroyed the compound wall and put up a iron gate in the subject property illegally, which is the subject matter of this writ petition. Regarding the issue the third respondent filed a suit and the petitioner preferred an appeal in A.S.42 of 2011 before the Subordinate Judge at Tambaram and the same was ordered in favour of the petitioner. Thereafter, the petitioner sent a representation to the first respondent regarding the issue. Pursuant to which the second respondent in Na.Ka.No.5257/2014/F1 dated 02.04.2014 directed the 3rd respondent to remove the encroachment and the said order was challenged by the 3rd respondent in W.P.13637 of 2014 and this Court vide order dated 19.11.2014 disposed of the writ petition with a direction to the second respondent to re-fix the gate in such a manner without causing any hindrance or obstruction to the other party or public and to have a free access to the road. When this being the case, the second respondent passed a non speaking order in Na.Ka.2905/2013/F-2 on 10.08.2022 wherein, it has been stated that there is no possibility to remove the encroachment made by the third respondent. Against which the petitioner



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has preferred an appeal before the first respondent on 07.01.2023.

However, there is no progress in the said appeal. Hence, this petition.

4. The learned counsel for the petitioner submitted that it would be suffice if this Court issues a direction to the first respondent to dispose petitioner's appeal dated 07.01.2023 and pass orders.

5. The learned Special Government Pleader appearing for the Respondents submitted that they will consider petitioner's appeal and take action in the manner known to law.

6. Considering the facts and circumstances of the case and the limited relief sought for by the petitioner, this Court, without going into the merits of the case, directs the first respondent to consider the petitioner's appeal dated 07.01.2023 and pass orders on merits and in accordance with law within a period of five months from the date of receipt of a copy of this order.



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7. With the aforesaid direction, this Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

28.06.2024

Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
smn

To

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V.BHAVANI SUBBAROYAN, J.



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