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W.P. No.12643 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.07.2024

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.12643 of 2024

1. Mr. A.Meenakshi Sundaram,
2.Mrs. Uma Maheswari

....Petitioners

..Vs..

1. The Tahsildar,
Madhuravoyal, Chennai -600 095.

2. The Assistant Commissioner,
Zone XI, Greater Chennai Corporation,
No.33, Arcot Road,
Valasarawakam Chennai-600 087.

....Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus directing the 1st respondent to measure and laying the stone for petitioner's house site in survey Nos. 17/16 & 11/9 in Thundalam Village, Maduravoyal Taluk and directing the 2nd respondent to remove the unauthorised road laid in a petitioner's house site in survey Nos. 17/16 & 11/9 in Thundalam Village, Maduravoyal Taluk and pass orders accordingly.



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For petitioners : Mr.S. Selva Kumar
For Respondents : Mr. P. Gurunathan for R1
(Additional Govt. Pleader)
Mr.E.C. Ramesh for R2

ORDER

This Writ petition has been filed seeking for a Writ of Mandamus directing the 1st respondent to measure and laying the stone for petitioner's house site in survey Nos. 17/16 & 11/9 in Thundalam Village, Maduravoyal Taluk and directing the 2nd respondent to remove the unauthorised road laid in a petitioner's house site in survey Nos. 17/16 & 11/9 in Thundalam Village, Maduravoyal Taluk and pass orders accordingly.

2.It is the case of the petitioner that (i) the petitioners have purchased a property bearing Plot No.25, Thiru Vi Ka Nagar, 7th Street comprised in Survey Nos. 11/9 & 17/16 to an extent of 2430 Sq.ft. situated at Thundalam Village, Maduravoyal Taluk, previously Thiruvallur district by registered Sale Deed dated 11.07.2019 as Document No.7869 of 2019 at



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Joint-1, SRO, Saidapet and subsequently after receiving Patta No. 824 in their names from the Revenue Authorities and planning approval from Chennai Corporation, they have constructed a building and are in the peaceful possession and enjoyment of the property till date. After completion of their building, as their property is a corner plot abutting road on the northern and western side and the boundary stone was missing in the field, when they prepared to put up compound wall, the local residents objected about their plot boundary in the western side and the same also been supported by the local authority, officials of the Zone XI Chennai Corporation and sought to stop the construction without giving any notice. Hence, the petitioners have given the representation to the 1st respondent on 28.02.2022 to measure their house site and ear mark the boundaries and laying of boundary stone and he had also measure land not according to the Field measurement book and not ear mark the correct boundaries. Hence, again they have given representation on 12.05.2023 to the 1st respondent for measurement of land since the correct boundary had not been fixed. Thereafter, the 2nd respondent had wrongly laid concrete road in their plot and they had objected to the same and again the contractor of the 2nd respondent department came at midnight and laid the Thar road without



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their knowledge. Hence, they have made representation to the 2nd respondent on 26.11.2023 and it has gone into vain. Finally the petitioners have made representation to the 1st respondent on 12.03.2024 to measure their house site and ear mark the correct boundaries and laying of boundary stone. Accordingly, their plot was measured wherein it is stated by oral that the 2nd respondent has encroached their house site and laid the road and however the 1st respondent does not give the written report of correct measurement to the petitioners. Thereafter, the petitioners have made a representation on 10.03.2024 to the 2nd respondent to remove unauthorized road laid in their plot. However, they have not removed road laid by the 2nd respondent. Even though the petitioners have made several representations to the respondents, the authorities concerned neither passed any order nor removed road laid by the 2nd respondent. Hence, this Writ petition.

3.The learned counsel for the petitioner submits that the 2nd respondent had wrongly laid concrete road in their plot even though the petitioners had objected to the same. Based on the representation dated 12.03.2024, the petitioners' plot was measured wherein it is stated by oral that the 2nd respondent has encroached their house site and laid the road.



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However, they have not removed unauthorized road laid. Hence, the petitioners have made a representation on 10.03.2024 seeking to remove the same. Despite the said representation has been received by the respondents, they have not taken any steps to remove their encroachment. Hence, he seeks the relief as prayed for.

4.The learned counsel for the respondents submits that as per the report given by the Tahsildar, Maduravoyal Taluk, a Bitumen Road has been laid on the North-West portion of the land owned by the Petitioners herein wherein it is encroached in a Right-angled Triangular Shape having 12' height and 25' base which works out to nearly 149 Sq.ft. Accordingly, Surveyor's report along with sketch has been enclosed herewith. Hence, this Court may direct the respondents to remove the aforesaid encroachment.

5. Heard both sides and perused the materials available on records.

6. Having considered the facts and circumstances of the case and report made by the Tahsildar as well as submissions advanced by the



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learned counsel for the petitioners and respondents, the respondents are

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V.BHAVANI SUBBAROYAN, J.,

Lbm

hereby directed to remove the encroachment made in the petitioners house site herein within a period of four weeks from the date of receipt of copy of this order and file a report of the compliance of this order on 06.09.2024 before this Court.

7. In view of the above direction, the Writ petition is disposed of. No costs.

31.07.2024

Index : Yes/No
Internet: Yes/No
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To:

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Madhuravoyal, Chennai -600 095.
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