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W.P.No.12647 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN

THILAKAVADI

W.P.No.12647 of 2024

L.G.Parthiban
S/o.L.Govindan

... Petitioner

Vs.

1. The State
Rep. By its Secretary
Ministry of Municipal Administration
Fort St. George, Rajaji Road
Chennai – 600 009
2. The District Collector
Collectorate Office
Singaravellar Malligai
Chennai District
3. The Member Secretary
Chennai Metropolitan Development Authority
Egmore, Chennai – 600 008
4. The Commissioner
Corporation of Chennai
Rippon Building

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Chennai – 600 003

5. The District Revenue Officer
Singaravellar Malligai, Rajaji Salai
Chennai District
6. The Revenue Divisional Officer
RDO Office, Thondiarpet Taluk
Thondiarpet, Chennai – 600 081
7. The Tashildar
Taluk Office
Thondiarpet Taluk
Thondiarpet, Chennai – 600 081
8. Isaivannan
S/o.Late Thambidurai
9. Kalaivani
W/o.Irusappan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 4 and 5 to consider and take necessary action based on the petitioner's representation dated 21.02.2006 and 26.02.2021 thereby requesting to remove the encroachments and unauthorized construction put up by the 8th and 9th respondents at public place allocated for park comprised in R.S.NO.1802/42, 6th Street Junction, Periyapalayathamman Koil East Street, Molakothalam, Chennai – 600 021 admeasuring an extent of 2833 sq.ft within a time frame to be fixed by this Court.

For Petitioner : Mr.D.Thirumoorthy

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For Respondents : Mr.A.Selvendran
Special Government Pleader
assisted by Mr.TK.Saravanan
Govt. Advocate for R1, 2, 5, 6 and 7

Mr.R.Sivakumar
Standing Counsel for R3

Mr.D.B.R.Prabhu
Standing Counsel for R4

ORDER

[Order of the Court was made by M.SUNDAR, J.,]

This order will now dispose of the captioned 'Writ Petition' ['WP' for the sake of brevity].

2. Mr.D.Thirumoorthy, learned counsel on record for writ petitioner is before us.

3. Adverting to representations from the writ petitioner dated 21.02.2006 and 26.02.2021, learned counsel submitted that there is alleged encroachment in 'the property owned by the Commissioner, Corporation of Chennai comprised in R.S.No.1802/42, P.P.Amman Koil, Molakothalam



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East Street, Zone II, Ward 31' [hereinafter 'said land' for the sake of convenience and clarity] by R8 and R9 before us. To be noted, R8 and R9 are private respondents.

4. Considering the obtaining position, we are of the view that the captioned WP can be disposed of by ordering notice to official respondents (R1 to R7) and putting in a safety valve / adequate protection qua private respondents i.e., R8 and R9.

5. Issue notice to official respondents.

6. Mr.A.Selvendran, learned Special Government Pleader assisted by Mr.T.K.Saravanan, learned Government Advocate accepts notice for R1, R2 and R5 to R7. Mr.R.Sivakumar, learned Standing Counsel accepts notice for R3 and Mr.D.B.R.Prabhu, learned Standing Counsel accepts notice for R4.

7. In the light of what has been alluded to supra and considering the



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limited scope of the captioned WP, with the consent of both sides, main WP was taken up.

8. It was submitted by learned Government Pleader that G.O.(Ms)No.64, Revenue and Disaster Management Department, Land Disposal Wing, dated 08.02.2022 has been put in place, wherein and whereby Divisional Monitoring committee, District Monitoring Committee and State Steering Committee have been constituted *inter alia* for a single point reporting / monitoring system qua Government lands.

9. In the light of the narrative thus far, we deem it appropriate to refer the matter to the Divisional Monitoring Committee headed by Revenue Divisional Officer (RDO), Chennai North, in the light of G.O.(Ms)No.64, Revenue and Disaster Management Department, Land Disposal Wing, dated 08.02.2022.

10. This Court directs the jurisdictional Divisional Monitoring



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Committee to examine if there is encroachment qua said lands. The

Divisional Monitoring Committee shall also ensure that adequate and ample opportunity is given to persons concerned more particularly alleged encroachers (R8 and R9) before taking a call. In this regard, we are acutely conscious that the matter is being disposed of in Admission Board without notice to alleged encroachers and therefore, this safety valve is put in place. To be noted, all the rights and contentions of alleged encroachers are preserved for being raised before the Committee concerned which shall consider the same on its own merits and in accordance with law untrammelled by this proceedings in this Court.

11. The Divisional Monitoring Committee qua G.O.(Ms)No.64, Revenue and Disaster Management Department, Land Disposal Wing, dated 08.02.2022, shall (if it comes to the conclusion that there is encroachment) report the encroachment for further action (for removal of encroachment which again shall be after giving adequate and ample opportunity to alleged encroachers).



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12. It is open to the WP petitioner and or anyone concerned with this matter to come to this Court on the same issue even with a similar / same prayer if there are any change of circumstances.

13. We make it clear that we are not expressing any view or opinion as to whether there is encroachment or not qua said land as it turns on facts and it is for the Divisional Monitoring Committee to take a call on this aspect of the matter.

14. Captioned WP is disposed of with the aforementioned observations and directives in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.)

(K.G.T.,J.)

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Speaking / Non-speaking
Neutral Citation : Yes / No
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M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

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