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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14-03-2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE K.RAJASEKAR**

**WP No.17199 of 2019
And
WMP No.16751 of 2019**

Mrs.Anita Chitnis

.. Petitioner

-VS-

- 1.The District Collector,
Office of the District Collector,
No.3, Collector's Office Road,
Kanchipuram,
Kanchipuram District.
- 2.The Tahsildar, Padappai,
Office of the Tahsildar,
Sriperumbudur,
Kanchipuram District.
- 3.The Executive Officer,
Padappai, I Grade Panchayat Office,
No.1/187, Anna Nagar, I Street,
Padappai-601 301.



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4. The Block Development Officer,
Office of the BDO,
Padappai-601 301.

5. The Deputy Director,
Town and Country Planning,
Office of the Deputy Director,
Town and Country Planning,
Chengalpet.

6. The Superintendent of Police,
Office of the Superintendent of Police,
Kanchipuram,
Kanchipuram District.

7. The Assistant Superintendent of Police,
Office of the Assistant Superintendent of Police,
Kanchipuram,
Kanchipuram District.

8. The Inspector of Police,
Manimangalam Police Station,
Manimangalam,
Sriperumbudur,
Kanchipuram District.

9. The David Nagar Trust,
Represented by its Chairman,
Mr. Rajkumar Davidar,
David Nagar,
Padappai-601 301.

10. Ms. R. Bhuvana Kumar

.. 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 I to VIII to remove the encroachment on the road in front of the petitioner's property and the illegal construction erected therein, by the X respondent comprised in Survey No.548/3A, David Nagar, Padappai, Sriperumbudur Taluk, Kanchipuram District and maintain the road as a road by taking it over from the Davidar Trust.

For Petitioner : Mr.M.K.Kabir, Senior Counsel for
Mr.T.Jayaraman.

For Respondents-1 to 8 : Mr.A.Selvendran,
Special Government Pleader.

For Respondent-9 : Mr.J.Chandran Sundar Sashikumar
for Ms.Mythili Srinivas

For Respondent-10 : Mr.S.Barathaam Bethakar

ORDER

[ORDER OF THE COURT WAS MADE

BY S.M.SUBRAMANIAM, J.]

The Writ of Mandamus has been instituted to direct the respondents 1 to 8 to remove the encroachment on the road in front of the



petitioner's property and the illegal construction erected therein, by the X respondent comprised in Survey No.548/3A, David Nagar, Padappai, Sriperumbudur Taluk, Kanchipuram District and maintain the road as a road by taking it over from the Davidar Trust.

2. Mr.M.K.Kabir, learned Senior Counsel, appearing on behalf of the petitioner, would submit that the petitioner is the absolute owner of the land in Plot No.16 of David Nagar, measuring an extent of 30 cents registered as document No.3012 of 1965. The petitioner is in possession and enjoyment of the said Plot.

3. The grievance of the petitioner is that there is an encroachment on the existing 40 feet road and on 20 feet road, Northern side of Plot No.16. As far as the existence of 40 feet road is concerned, there is no dispute between the parties. However dispute exist about 20 feet road.

4. The learned counsels, appearing on behalf of respondents 9 and 10, also states that the 40 feet existing road, as per the layout, has not been encroached upon and in public usage.



5. Since the learned Senior Counsel appearing on behalf of the petitioner, made a submission that there is an encroachment in the existing 40 feet road, the respondent Nos.2 to 4 are directed to survey the existing 40 feet road as per the layout and if any encroachments are identified in the said 40 feet road, that is directed to be removed by issuing notice to the encroachers.

6. As far as the 20 feet road in the Northern side of Plot No.16 belongs to the petitioner is concerned, it is not established before this Court that the said 20 feet road is part of the unapproved layout. Further allegation is that the private respondents are putting up unauthorised constructions in the subject land.

7. In this regard, the respondents 1 to 5 are directed to verify the Building Plan Approval, if any granted and in the event of identifying any unauthorised constructions, notice is to be issued under the relevant provisions of the Act and the Rules in force and accordingly, demolish such unauthorised constructions and restore the land in its original position.



8. Regarding the disputed 20 feet road is concerned, this Court cannot conduct a roving enquiry in the present writ proceedings. A civil suit has already been instituted by the petitioner. Thus the petitioner is at liberty to establish the existence of 20 feet road before the Civil Court in the manner known to law.

9. We are not expressing any opinion in respect of the 20 feet road as claimed by the writ petitioner, situate in the Northern boundary side of Plot No.16.

10. In view of the facts and circumstances, the respondents 1 to 4 are directed to survey the 40 feet road and remove all the encroachments in the 40 feet road and demolish the unauthorised constructions on the road. The entire exercise is directed to be completed within a period of twelve weeks from the date of receipt of a copy of this order.



11. With the above directions, the present writ petition is allowed in part. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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

14-03-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



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