



WEB COPY



W.P.No.17560 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P. No.17560 of 2020

K.Murugan

... Petitioner

Vs.

- 1.The Commissioner,
Greater Corporation of Chennai,
Ripon Building, Chennai – 600 003.
- 2.The Member Secretary,
Chennai Metropolitan Development,
Authority, Gandhi-Irwin Road,
Egmore, Chennai – 600 008.
- 3.The Assistant Executive Engineer,
Zone XIII, Corporation of Chennai,
115, Dr.Muthulakshmi Salai,
Adayar, Chennai – 600 020.
- 4.The Executive Engineer,
Zone XIII, Corporation of Chennai,
115, Dr.Muthulakshmi Salai,
Adayar, Chennai – 600 020.

5.N.Anandhan

... Respondents

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Prayer: Writ Petition is filed under Article 226 of Constitution of India, for issuance of Writ of Mandamus, directing the respondents 3 and 4 to remove the encroachment made by N.Anandhan in the public pathway measuring about 140 sq.ft at Plot No.6, Block No.2021, T.S.No.14/part, Door No.141/3, West Canal Bank Road, Kottur, Chennai – 600 085, pursuant to petitioner's representation dated 29.07.2020.

For Petitioner	: Mr.O.V.Krishnan
For R1, R3 & R4	: Mr.E.C.Ramesh Standing Counsel for GCC
For R2	: Mr.V.Sudalaiselvan Standing Counsel for CMDA
For R5	: Mr.Karthick Lakshman

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

The writ of mandamus has been instituted to direct the respondents 3 and 4 to remove the encroachment made by the 5th respondent in the public pathway measuring about 140 sq.ft at Plot No.6, Block No.2021, T.S.No.14/part, Door No.141/3, West Canal Bank Road, Kottur, Chennai – 600 085 by considering the petitioner's representation dated 29.07.2020.

2. The 5th respondent instituted a Civil Suit for injunction in O.S.No.4678 of 2005, on the file of the learned XIII Assistant Judge, City



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Civil Court, Chennai, which was dismissed on 30.09.2013 and the Appeal Suit in A.S.No.107 of 2014 was also dismissed on 30.06.2017 by the learned I Additional Judge, City Civil Court, Chennai.

3. Mr.E.C.Ramesh, learned Standing Counsel for the Corporation would submit that the subject property is a 'common lane'. Mere pendency of Civil Suit is not a bar for the Corporation Authorities to evict the encroachers from the streets and from the public property by invoking the provisions of the Act and Rules.

4. In the present case, the Corporation states that it is a 'common lane' as described in the layout, which is to be protected by Chennai Corporation. That being the factum, the 3rd respondent/the Assistant Executive Engineer, is directed to issue appropriate notice to all the parties and on receipt of objections if any from those parties, take a final decision and remove the encroachments and maintain the 'common lane' for the usage of the public in general. The said exercise is directed to be completed within a period of twelve weeks from the date of receipt of a copy of this order.



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5. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs.

[S.M.S,J.] [K.R.S,J.]
27.02.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

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