



WEB COPY



W.P.No.20859 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.No.20859 of 2024

Mr.T.T.Udayabhanu

... Petitioner

Vs.

1. The District Collector
Collectorate, Singaravelar Maaligai
Chennai – 600 001
2. The Commissioner
Greater Chennai Corporation
Rippon Building, Park Town
Chennai – 600 003
3. The Deputy Commissioner (North)
Greater Chennai Corporation
North Regional Deputy Commissioner Office
No.61, Basin Bridge Road
Chennai – 600 021

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4. The Zonal Officer
Greater Chennai Corporation
Tondiarpet Zonal Office, T.H.Road
Chennai – 600 021

5. The Assistant Engineer
Greater Chennai Corporation
Zone IV, Ward No.34
Zonal office, Kodungaiyur
Chennai – 600 118

6. The Tahsildar
Perambur Taluk
Mullai Nagar, Vyasarpadi
Chennai – 600 039

7. Mrs.G.Saritha ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing respondents 1 to 6 to remove the encroachments made by the 7th respondent in the common road for the public leading to the petitioner's property in Plot No.4, J K P Nagar, New No.18, Old No.32, Venkateswara Colony 4th Street, Kodungaiyur, Chennai – 600 118, comprised in Survey No.16 of No.32 Jambuli Village and similar plots in said road.

For Petitioner	:	Mr.B.Damodaran
For Respondents	:	Mr.P.Balathandayutham Spl.Govt.Pleader for R1 & R6
		Mr.E.C.Ramesh Standing counsel for R2 to R5



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ORDER

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

Captioned main 'Writ Petition' ['WP' for the sake of brevity] pertains to alleged encroachment in common road meant for the public.

2. Mr.B.Damodaran, learned counsel for writ petitioner submits that writ petitioner's property is 'Plot No.4, J K P Nagar, New No.18, Old No.32, Venkateswara Colony 4th Street, Kodungaiyur, Chennai – 600 118' [hereinafter 'writ petitioner's property' for the sake of convenience and clarity].

3. Learned counsel submits that R7 (private respondent) is encroaching upon common road meant for the public which is leading to the writ petitioner's property by commencing to put up a structure therein. Learned counsel drew our attention to three representations dated 22.05.2024, 18.06.2024 and 05.07.2024 sent by the writ petitioner. Learned counsel also drew our attention to some photographs which according to the learned counsel depicts the alleged encroachment.

4. Issue notice to official respondents i.e., issue notice regarding admission.

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5. Mr.P.Balathandayutham, learned Special Government Pleader accepts notice for R1 and R6 and Mr.E.C.Ramesh, learned Standing Counsel accepts notice for R2 to R5.

6. Mr.P.Balathandayutham, learned State counsel submits on instructions that the jurisdictional Tahsildar (R6) is doing a survey today and based on the survey, if there is encroachment in public common road meant for public, action will be initiated *inter alia* under Section 128(1)(b) of 'the Tamil Nadu Urban Local Bodies Act, 1998 (Tamil Nadu Act 9 of 1999)' [hereinafter 'TNULB Act' for the sake of brevity]. This submission is recorded.

7. In the light of the submission of learned State counsel on instructions, the scope of the captioned WP has dwindled vastly and therefore, with the consent of learned counsel on both sides, main WP is taken up in the Admission Board itself.

8. We are acutely conscious that R7, who is a private respondent, is not before this Court but we will be putting in a safety valve as regards R7 as well as the writ petitioner.



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9. We make the following order:

i) Let the survey be done today;

ii) If the survey report says that there is no encroachment, writ petitioner as well as R7 should be favoured with a copy of the report and it will be open to any one concerned with the matter to assail the report;

iii) If the report says that there is encroachment and if action is commenced under TNULB Act, the action will be under Section 128(1)(b) of TNULB Act.

iv) Section 128(1)(b) of TNULB Act provides for show-causing the alleged encroacher giving 7 days time. This means that R7 will be show-caused. When R7 is show-caused, writ petitioner will also be favoured with a copy of the SCN (show-cause notice) and it is open to the writ petitioner to send a representation;

v) In the light of proviso to Section 128(1)(b) of TNULB Act, the Authority concerned shall take into account and consider the representation of the writ petitioner also



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before making final orders;

vi) We make it clear that we have not expressed any view or opinion on the merits of the matter;

vii) The aforementioned exercise commencing survey today shall be completed by the respondents as expeditiously as the business of the respondents would permit but in any event within six weeks from today i.e., by 09.09.2024.

viii) R7 being show-caused and copies being furnished to the writ petitioner, puts in a safety valve qua R7, though R7 is not before this Court and this is the safety valve alluded to supra.

ix) We also make it clear that all rights and contentions of all parties are preserved and all questions are left open for the purpose of the ensuing drill before the respondents and therefore in this regard, there is preservation of rights of writ petitioner as well as R7.



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Captioned WP disposed of in the aforesaid manner. There shall be no

order as to costs.

(M.S.,J.) (K.G.T.,J.)
29.07.2024

Index : Yes / No

Speaking / Non-speaking order

Neutral Citation : Yes / No

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