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W.P.No.24039 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.24039 of 2024
and W.M.P.No.26301 of 2024

K.Santhi

... Petitioner

-Vs-

1.The National Highway Authority of India
Sri Tower 3rd Floor,
DP-34, Sipcot Industrial Estate,
Guindy, Chennai – 600 032.

2.The Commissioner
Greater Chennai Corporation
Ripon Buildings,
Chennai – 600 003.

3.The Asst. Engineer,
Greater Chennai Corporation,
Zone III, Div.24,
1/177, Surapet Main Road,
Surapet, Chennai – 600 066.

4.The Inspector of Police
T-1, Ambattur Police Station,
Ambattur, Chennai – 600 053.

5.The Tahsildhar,
Madhavaram Taluk Office,
Madhavaram, Chennai – 600 060.

6.Vijaya Mookim

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India



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praying for the issuance of a Writ of Mandamus forbearing the respondents particularly the respondents 2, 3 or any one acting on their behalf from in any manner interfering or disturbing with the peaceful possession, occupation, title of the petitioner over the immovable property No.55, Surapet Village, comprised in Survey No.193/5, (as per patta No.2322 and 2355, 193/5B2 and 193/5B3), Somjibhai Nagar, comprised in Plot Nos.37 and 38, vide New Patta No.12181, New Survey No.193/115 having extent of 1075 sq.ft or thereabouts in the light of W.P.No.17749 of 2020 dated 21.03.2024.

For Petitioner	: Mr.T.S.Rajamohan
For R1	: Mr.Su.Srinivasan Standing Counsel
For R2 & R3	: Mr.G.T.Subramanian Standing Counsel
For R4	: Mr.A.Gopinath Government Advocate (Crl. Side)
For R5	: Mr.N.Naveen Kumar Government Advocate.

ORDER

This Writ Petition has been filed forbearing the respondents 2 and 3 from in any manner interfering or disturbing with the peaceful possession, occupation, title of the petitioner over the immovable property No. 55, Surapet Village, Comprised in Survey No. 193/5, (as per patta No. 2322 and 2355, 193/5B2 and 193/5B3), Sojibhai Nagar, Comprised in Plot Nos. 37 and 38, vide New Patta No. 12181, New Survey No. 193/115 having extent of 1075 sq.ft in the light of W.P.



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17749 of 2020, dated 21.3.2024.

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2. Heard the learned counsel appearing for the petitioner, the learned Standing Counsel appearing for the respondents 1 to 3, the learned Government Advocate (Crl.Side) appearing for the 4th respondent and the learned Government Advocate appearing for the 5th respondent.

3. The petitioner had purchased the subject property from her vendor by a registered sale deed dated 12.02.2019 vide document No.1906 of 2019. It was purchased out of 4302 sq.ft situated at Door No.37 and 38. Even before purchase, the first respondent acquired the land for the purpose of formation of road to an extent of 3227 sq.ft. out of 4302 sq.ft. The remaining extent of 1075 sq.ft. was purchased by the petitioner. While being so, the sixth respondent lodged a complaint before the respondents 1 to 5 alleging that the petitioner is an encroacher of the subject land and the same was already acquired by the first respondent.

4. In the earlier round of litigation, the sixth respondent filed a writ petition before this Court in W.P.No.17749 of 2020 for direction



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directing the officials to remove the encroachment made by the fifth and sixth respondents, who are none other than the petitioner's vendor from the very same subject property. In the said writ petition, the first respondent filed a counter stating that,

“3. the 5th respondent had purchased two plots bearing Nos.37 and 38 situated in Somjibai Nagar, Surapattu Village, Ambattur Taluk, Tiruvallur District. As per the documents produced by the writ petitioner in the typed set itself it could be seen that the 5th respondent had purchased Plot No.37 vide Sale Deed dated 30.10.1996 registered in the SRO of Ambattur vide Document No.242 of 1998 having an extent of 2149 sq.ft and purchased Plot No.38 measuring an extent of 2153 sq.ft vide Document No.239 of 1998. The 5th respondent totally had an extent of 4302 sq.ft by way of these two sale deeds.

4. for widening of National Highways, the notification under Section 3A(1) was published in the Gazette of India on 21.02.2006 and after complying other requirements, publication of notification under Section 3(D)1 was published in the Gazette of



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India on 18.10.2006. by this acquisition proceedings 300 sq.mtrs (3,228 sq.ft) were acquired and the compensation of Rs.8,05,860/- was paid to the petitioner. After the acquisition, the petitioner left with 1075 sq.ft of land which is not under acquisition by NHAI.

5. even in the field visit by the revenue officials it was noticed that no encroachment was taken place by the 5th respondent. It is the writ petitioner who is using the 5th respondent's land as access passage to the service road had come to this Hon'ble Court with false allegation of encroachment. Admittedly, the 5th respondent had given power of attorney to 6th respondent as evidenced by the copy of the power of attorney produced by the writ petitioner in page 39 of the typedset. In the said power of attorney, it was clearly mentioned by the 5th respondent after acquisition is giving the power of attorney to the 6th respondent for the extent of 1075 sq.ft from out of 4302 sq.ft comprising in Plot Nos.37 and 38 which was already acquired by the NHAI."



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5. From the said counter, it is clear that the fifth and sixth respondents in that writ petition, i.e., the vendor of the petitioner herein, have not encroached upon the property belonging to the first respondent. That apart, the Hon'ble Division Bench of this Court further recorded that the sixth respondent has also encroached some portion of the land belongs to the first respondent. The revenue officials were directed to take appropriate action to evict the sixth respondent from the encroached portion of the land belonging to the first respondent. Therefore, the sixth respondent lodged another complaint before the respondents 1 and 2 to remove the encroachment of the petitioner.

6. The learned counsel appearing for the respondents also submitted that sofar as the petitioner is concerned, she purchased the property from the remaining land out of 4302 sq.ft and she does not encroach any property belonging to the first respondent.

7. In view of the above, the respondents 2 and 3 are hereby restraining from in any manner interfering with the peaceful possession and enjoyment of the subject property of the petitioner.



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8. With the above direction, this writ petition stands allowed. Consequently, connected miscellaneous petition is closed. No costs.

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Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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To

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