



WEB COPY



W.P.No.25980 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **K.RAJASEKAR**

W.P.No.25980 of 2024
and
W.M.P.No.28367 of 2024

R.Hemavathy
W/o.R.Ravi (late)

... Petitioner

Vs.

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.
2. The District Collector,
Chengalpattu District,
Chengalpattu – 603 111.
3. The Revenue Divisional Officer,
Tambaram Division,
Chennai – 600 045.
4. The Tahsildar,
Tambaram Taluk,
Chennai – 600 045.



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5. The Block Development Officer,
St. Thomas Mount Panchayat Union,
Chitlapakkam,
Chengalpattu District.

6. Dr.A.Karthik
S/o. Arjunan

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the official respondents to take appropriate legal action against the 6th respondent from encroaching the Panchayat road/Public road at Perumal Nagar, 3rd Cross Street, Nanmangalam Village, St. Thomas Mount Panchayat Union, Chennai – 600 129, as per the approved layout by the proceedings of 5th respondent in Ka.Vu.No.137/2019-20 dated 27.11.2019 and to ensure the access to the public road from the petitioner's patta land in Plot No.33, by removing the construction presently being made in the public road forthwith, in consideration of representation submitted by the petitioner dated 03.08.2023.

For Petitioner : Mr.S.Nedunchezhiyan

For R1 : Ms.N.Gayathri
for Mr.R.Thamaraiselvan

For R2 to R5 : Mr.T.K.Saravanan
Government Advocate

For R6 : Mr.R.Balaguruswamy

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].



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2. Mr.S.Nedunchezhiyan, learned counsel for writ petitioner is before

us.

3. Adverting to a representation from the writ petitioner dated 03.08.2023, learned counsel for writ petitioner submitted that there is alleged encroachment in 'Panchayat road/Public road at Perumal Nagar, 3rd Cross Street, Nanmangalam Village, St. Thomas Mount Panchayat Union, Chennai – 600 129' [hereinafter 'said Public Road' for the sake of convenience and clarity] by R6 before us. To be noted, R6 is a private respondent.

4. When the captioned WP came up before the Hon'ble Predecessor Division Bench on 04.09.2024, counsel for official respondents, namely, R1 to R5 accepted notice and notice was directed to be issued to R6.

5. Ms.N.Gayathri, learned counsel representing Mr.R.Thamaraiselvan, learned Standing Counsel for CMDA (R1), Mr.T.K.Saravanan, learned Government Advocate for R2 to R5 and Mr.R.Balaguruswamy, learned counsel for R6/private respondent are before this Court.

6. In the light of what has been alluded to supra and considering the limited scope of the captioned WP, with the consent of both sides, main WP was taken up.



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7. It was submitted by learned State counsel 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.

8. 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, Tambaram Division, Chennai, in the light of G.O.(Ms)No.64, Revenue and Disaster Management Department, Land Disposal Wing, dated 08.02.2022.

9. This Court directs the jurisdictional Divisional Monitoring Committee to examine if there is encroachment qua said Public Road. The Divisional Monitoring Committee shall also ensure that adequate and ample opportunity is given to persons concerned more particularly alleged encroacher (R6) before taking a call. To be noted, all the rights and contentions of alleged encroacher 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.



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10. 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 encroacher).

11. It is open to the writ 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.

12.The 6th respondent, who is the alleged encroacher has filed detailed counter affidavit. We make it clear that we are not expressing any view or opinion on the alleged encroachment as it will be subject matter of the enquiry.

13. We further make it clear that we have not expressed any view or opinion as to whether there is encroachment or not qua said Public Road as it turns on facts and it is for the Divisional Monitoring Committee to take a call on this aspect of the matter. We also make it clear that this exercise will not apply to patta land and it will apply only to public land, if there is any encroachment in public land.



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

Consequently, connected W.M.P. is also closed.

(M.S.,J.)

(K.R.S.,J.)

18.11.2024

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

rsi



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