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W.P.No.33832 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.33832 of 2024

Mr.G.Babu

S/o.P.Govindharaj

... Petitioner

Vs.

1. The District Collector
Chennai District
No.62, 4th Floor, Rajaji Salai
Beach Road, George Town
Chennai – 600 001
2. The Commissioner
Hindu Religious and Charitable Endowments Department
No.119, Mahatma Gandhi Salai
Thousand Lights, Nungambakkam
Chennai – 600 034
3. The Chief Minister Cell Special Department
Secretariat
Chennai – 600 009
4. The Corporation Commissioner
Greater Chennai Corporation
Ribbon Building, Perimet

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Chennai – 600 003

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5. The Executive Engineer
Greater Chennai Corporation
Zone-4, No.226
Tondiarpet High Road
Chennai – 600 021

6. Mr.Raju

7. Mrs.Jaya ... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing respondents 1 to 5 to consider the representations of the petitioner dated 16.09.2024 and 25.09.2024 and direct the respondents 1 to 5 to remove the temple run by the 6th and 7th respondents by occupying the public road illegally and unauthorizedly by fixing a stipulated time.

For Petitioner : Mr.V.Balasubramani

For Respondents : Mr.M.S.Arasakumar
Government Advocate for R1 & R3

Mr.N.R.R.Arun Natarajan
Spl. Govt. Pleader (HR & CE) for R2

Mr.A.C.Mani Bharathi
for R4 and R5



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ORDER

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[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].

2. Mr.V.Balasubramani, learned counsel on record for writ petitioner is before us.

3. Adverting to representations from the writ petitioner dated 16.09.2024 and 25.09.2024, learned counsel for writ petitioner submitted that there is alleged encroachment in 'public road in Block No.3, Koyyathoppu, 3rd Street, Kodungaiyur, Chennai – 600 118' [hereinafter 'said public road' for the sake of convenience and clarity] by R6 and R7 before us. To be noted, R6 and R7 are private respondents.

4. Considering the obtaining position, we are of the view that the captioned WP can be disposed of by ordering notice to respondents (R1 to R5) and putting in a safety valve / adequate protection qua alleged encroachers i.e., R6 & R7.

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5. Issue notice to official respondents i.e., R1 to R5.

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6. Mr.M.S.Arasa Kumar, learned Government Advocate accepts notice for R1 and R3, Mr.N.R.R.Arun Natarajan, learned Special Government Pleader (HR & CE) accepts notice for R2 and Mr.A.C.Mani Bharathi, learned counsel accepts notice for R4 and R5.

7. 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.

8. 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.



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

10. This Court directs the jurisdictional Divisional Monitoring Committee to examine if there is encroachment qua said land. The Divisional Monitoring Committee shall also ensure that adequate and ample opportunity is given to persons concerned more particularly alleged encroachers (R6 & R7) before taking a call. In this regard, we are acutely conscious that the matter is being disposed of in Admission Board without notice to alleged encroachers and therefore, this safety valve is put in place. To be noted, all the rights and contentions of alleged encroachers 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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11. 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 encroachers).

12. It is open to the WP 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.

13. We make it clear that we have not expressed any view or opinion as to whether there is encroachment or not qua said land 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.

(M.S.,J.)

(K.R.S.,J.)

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Index : Yes / No

Neutral Citation : Yes / No

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To

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