



WP No.35529 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.35529 of 2023
and WMP No.35492 of 2023

S.Rajeswari

.. Petitioner

-VS-

1. The District Collector,
Thiruvallur District,
Thiruvallur.
2. The Commissioner,
Avadi City Municipal Corporation,
Avadi, Thiruvallur District.
3. The Commissioner,
Hindu Religious & Endowment Board,
Uthamar Gandhi Salai, Chennai.
4. The Thasildhar,
Avadi (near Hindu College),
Avadi Chennai 600 072.

5. S.Munusamy

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 2nd respondent to remove the encroachment made by the 5th respondent in the Devarajapuram 2nd Street, Town Survey No.16, Block-20, Ward-E of Avadi City Municipal Corporation Limit within the stipulated period of time.



WP No.35529 of 2023

WEB COPY

For the Petitioner : Mr.R.Rajkumar
For the Respondents : Mr.C.Kathiravan
Special Government Pleader
for RR 1 and 4
: Mr.R.A.Gopinath
Stdg. Counsel for R-2
: Mr.NRR.Arun Natarajan
Spl. Govt. Pleader for R-3
: Mr.M.Suriyamurthi for R-5

* * * * *

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.R.Rajkumar, learned counsel for the petitioner, Mr.C.Kathiravan, learned Special Government Pleader, for respondent Nos.1 and 4, Mr.R.A.Gopinath, learned standing counsel for respondent No.2, Mr.NRR.Arun Natarajan, learned Special Government Pleader for respondent No.3 and Mr.M.Suriyamurthi, learned counsel for respondent No.5.

2. The petition appears to be baseless. No document exists of the alleged site being a street. The petitioner is relying on the survey made by the Tahsildar. In case the site is being used by the petitioner



WP No.35529 of 2023

as a road from the private property of a patta land, the petitioner may claim easementary right. The 'A' Register is also not placed on record to suggest the existence of the street/road.

3. In absence of any authentic document suggesting the street on the said survey number, it will not be possible for any orders to be passed in favour of the petitioner. The learned Government Advocate also affirms that as per the revenue records no road exists. If at all, the said site is used as a road or pathway, then the same would come within the meaning of easementary right. A declaration has to be sought for easementary right and that can only be before the Civil Court. The party aggrieved may approach the Civil Court for that purpose.

With the aforesaid observation, the writ petition is dismissed.. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.V.G., CJ.)

(D.B.C., J.)

07.03.2024

Index : Yes/No



WP No.35529 of 2023

Neutral Citation : Yes/No
sra

THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

(sra)

To

1. The District Collector,
Thiruvallur District, Thiruvallur.
2. The Commissioner,
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Avadi, Thiruvallur District.
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