



WEB COPY



W.P.No.1232 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.1232 of 2024

and

W.M.P.No.1273 of 2024

T.Rajendran

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Represented by its Secretary to Government,
Municipal Administration
and Water Supply Department,
Fort St. George, Chennai – 600 009.
- 2.The Additional Chief Secretary/Commissioner,
Corporation of Chennai,
Ripon Buildings,
Park Town, Chennai – 600 003.
- 3.The Commissioner of Police,
Office of the Commissioner of Police,
No.132, Commissioner Office Building,
EVK Sampath Road,
Vepery, Chennai 600 007.



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4.The Joint Commissioner of Police,
Office of the Joint Commissioner of Police,
No.255X+VJ5, South Zone,
Police Office Street,
Binny Road,
Nazareth Puram, Gandhi Nagar,
Chennai – 600 016.

5.The Zonal Officer, Zone No.15,
Corporation of Chennai,
Sholingnallur,
Chennai – 600 119.

6.The Deputy Commissioner of Police,
Butt Road, St. Thomas Mount,
Chennai – 600 016.

7.The Assistant Commissioner of Police,
Butt Road, St. Thomas Mount,
Chennai – 600 016.

8.The Inspector of Police,
T.15, Kannagi Nagar Police Station,
Okkiyam Thoraippakkam,
Chennai – 600 097.

9.Executive Engineer, Zone No.15,
Greater Chennai Corporation,
No.120, Rajiv Gandhi Salai,
Old Mahabalipuram Road,
Sholinganallur, Chennai – 600 119.



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10. Assistant Executive Engineer, Zone No.15,
Greater Chennai Corporation,
No.120, Rajiv Gandhi Salai,
Old Mahabalipuram Road,
Sholinganallur, Chennai – 600 119.

11. The Sub-Inspector of Police,
T.15, Kannagi Nagar Police Station,
Okkiyam Thoraippakkam,
Chennai – 600 097.

12. Assistant Engineer,
Greater Chennai Corporation,
No.120, Rajiv Gandhi Salai,
Old Mahabalipuram Road,
Sholinganallur, Chennai – 600 119.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the order passed by the 2nd respondent order dated 24.07.2023, letter Z.O.15.C.No./B2/06054/2023, circulated to me on 02.12.2023 by registered post to be set aside.

For Petitioner	:	Mr.J.Arulprakasam
For R1	:	Mrs.S.Anitha Special Government Pleader
For R3, R4, R6 to R8 and R11	:	Mr.A.Gokulakrishnan Additional Public Prosecutor



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For R2, R5, R9, R10
and R12

:

Mr.E.C.Ramesh
Standing Counsel
for Chennai Corporation

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This writ petition is filed challenging the order passed by the 2nd respondent, dated 24.07.2023, holding that the Ranganathan Road at Survey No.123/1A2 and 123/2B2 is a Public Road and hence, the Corporation is well within the right to lay a road for public purpose in the same survey number.

2.Even though lengthy arguments were advanced by the learned counsel for the petitioner, this Court is unable to find any merit in this writ petition for the following reasons :

The petitioner claims title to the subject property on the basis of two sale deeds under which the grandfather of the petitioner by name M.Gangappa Naicker had purchased the property long back. The case of the



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petitioner is that the land which is the subject matter of this writ petition was bequeathed by his grandfather in favour of the petitioner and his younger brother under a registered Will dated 31.06.1966. Based on the sale deeds as well the Will allegedly executed by the grandfather of the petitioner in favour of the petitioner, the petitioner claims exclusive title to the property, which, according to the respondents, is part of public road.

3.The petitioner had filed a writ petition earlier in W.P.No.9390 of 2015 for issuance of a Writ of Prohibition prohibiting the respondents from trespassing into the petitioner's land. The said writ petition was disposed of by this Court, by an order dated 31.03.2015, with a direction to the respondents 2 and 3 therein to issue notice to the petitioner and thereafter, to proceed with the matter in accordance with law, after affording an opportunity of personal hearing to him.

4.The petitioner, thereafter, filed an appeal as against the said order in W.A.No.667 of 2015 and this Court, while dismissing the Writ Appeal, directed the authorities to consider each and every point urged by the writ



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petitioner and till such time an order is passed on merits, the respondents were directed to maintain status *quo*.

5.It appears that the respondents have considered the claim of the petitioner and held that the land in which the petitioner claims title is part of public road and that is being used as such for long number of years. Thereafter, the petitioner filed another writ petition before this Court in W.P.No.3521 of 2023. When the respondents tried to lay a road, the said writ petition was disposed of by this Court with the following directions on 27.02.2023 :

“8.Considering the above submissions made by the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents 1, 3, 4, 6 & 7, without deciding the issue on merits with regard to title of the property, the respondents 2 & 5 are directed to issue notice to the petitioner to the address given in the affidavit filed by him in the present Writ Petition, within four weeks from the date of receipt of a copy of this order. On receiving notice, the petitioner is directed to co-operate in conducting enquiry. The 2nd respondent is directed to



consider the documents and other evidence filed by the petitioner and pass a reasoned order as per the earlier order passed by the Division Bench of this Court dated 19.06.2015 in W.A.No.667 of 2015 within a period of eight weeks thereafter. Till such time, the respondents are directed to maintain status-quo. If any adverse order is passed, it is open to the parties to agitate the same before the Civil Court with regard to title of the property.”

6. Thereafter, the 1st respondent passed final order considering the claim of the petitioner. The petitioner claims title in respect of the property in few sub-divisions in Survey No.123 of Sholinganallur Taluk. After considering the earlier records and the documents submitted by the petitioner relating to Survey Nos.123 and 147, which were sub-divided later, the 1st respondent came to the conclusion that the property in S.No.123/2B2 has been used as a 40 feet road and that the entire Ranganathan Road at S.Nos.123/1A2 and 123/2B2 is a public road. It is further held that the Corporation is well within their right to lay a road for public purpose in the same survey number. Aggrieved by the same, the petitioner has once again preferred the above writ petition, despite a direction is given by this Court to



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approach the Civil Court in case an adverse order is passed against the petitioner.

7.The petitioner was given ample opportunity to produce documents and due notice was issued to the petitioner before passing the order impugned in this writ petition. The contention of the learned counsel appearing for the petitioner that the impugned order has been passed without giving sufficient opportunity to the petitioner, cannot be countenanced. The question of title cannot be decided either in a writ petition under Article 226 of the Constitution of India or by any of the respondents when there is serious dispute. Though the petitioner has earlier filed a civil suit against an individual, who according to the petitioner, is a contractor, and obtained an *ex parte* decree, none of the official respondents are parties before the Civil Court. Hence, without expressing any opinion on the merits of the petitioner's claim, preserving the liberty of the petitioner to approach the Civil Court to file an independent suit and establish his title in the manner known to law, this writ petition is dismissed. It is also open to the petitioner to seek appropriate consequential prayer or interim prayer in the civil suit



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itself. No costs. Consequently, connected miscellaneous petition is closed.

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(S.S.S.R., J.) (N.S., J.)
22.01.2024

mkn

Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

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