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W.P.No.32852 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.32852 of 2018

E.Dhanasekaran

.. Petitioner

Vs

- 1.The Commissioner,
Greater Chennai Corporation,
Chennai – 3.
- 2.The Executive Engineer,
Greater Chennai Corporation,
Chennai – 3.
- 3.The Assistant Commissioner,
Zone No.15,
Greater Chennai Corporation Office,
Sholinganallur,
Chennai – 19.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India seeking for issuance of a writ of mandamus forbearing the respondents, their men and people, agents, subordinates or any other person claiming through them from in any manner digging the petitioner's land in Mettukuppam, Okkiyam Thuraipakkam Village, Kanchipuram District, in S.No.180/4A1, forming rain water canal or continuing the



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formation of rain water canal and the same may be done on the alternative place.

For Petitioner : No Appearance

For Respondents : Mr.E.C.Ramesh
Standing Counsel

ORDER

The writ petition has been filed for forbearing the respondents from digging the petitioner's land comprised in Survey No.180/4A1, situated at Mettukuppam, Okkiyam Thuraipakkam Village, Kanchipuram District, for rain water canal.

2. The petitioner is the owner of the property comprised in Survey No.180/4A1, measuring an extent of 50 cents, situated at Mettukuppam, Okkiyam Thuraipakkam Village, Kanchipuram District. While being so, the third respondent is now constructing rain water canal, which runs into the petitioner's property. Therefore, the petitioner objected for formation of rain water canal into his property.



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3. On a perusal of the counter affidavit filed by the respondents, it is revealed that the said property was owned by the ancestors of the petitioner and by forming a layout, the said property was sold to various individuals as house plots. However, the said layout was not approved and there was no proper sub division and there was no open space reservation area for residents residing in the said property. However, the respondent has considered the request of the plot owners and laid a road. Now, the third respondent issued a work order for construction of storm water drain for flow of rain water from Choolaima Nagar to Bharathiyar Nagar main road to Secretariat colony canal. Though the subject property is shown as road, the revenue department also certified the use of the land as road. The Chennai City Municipality Act, 1919, states that private roads could be formed either at the instance of the residents or at the discretion of the first respondent. In fact, the petitioner himself admitted the fact of formation of road by selling his property to different individuals with road on its one side boundary. Therefore, the petitioner is estopped from objecting the formation of rain water canal.



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4. In fine, for the reasons stated above, the prayer sought for by the petitioner cannot be considered and accordingly, the writ petition is dismissed as devoid of any merit. No Costs. W.M.P.No.38062 of 2018 is closed.

22.08.2024

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To

- 1.The Commissioner,
Greater Chennai Corporation,
Chennai – 3.
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- 3.The Assistant Commissioner,
Zone No.15,
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G.K.ILANTHIRAIYAN, J.
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