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W.P. No.2944 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2025

CORAM:

THE HON'BLE MR. JUSTICE M. SUNDAR
AND
THE HON'BLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

W.P.No.2944 of 2025 and W.M.P. No.3237 of 2025

1. R. Muthukrishnan
2. S. Shanmugam
3. J.V. Muthu
4. M.G. Annadurai
5. V. Nedunchezian
6. H. Nazir
7. S. Josephine Malathy
8. C. Harikrishnan
9. M. Renugadevi

Petitioners

vs.

1. The Chairman
Tamil Nadu Urban Habitat Development Board
No.5, Kamarajar Salai
Chepauk
Chennai 600 005
2. The Commissioner
Greater Chennai Corporation
Ripon Buildings
Chennai 600 003

Respondents

Writ Petition filed under Article 226 of the Constitution of India
seeking a writ of mandamus directing the first respondent to consider
and dispose of the petitioner's representation dated 03.01.2025.



For petitioner Mr. S. Murugan

ORDER

(made by M. SUNDAR, J.)

WEB COPY Captioned main 'writ petition' (hereinafter 'WP' for the sake of brevity) has been filed with a mandamus prayer *qua* a representation dated 03.01.2025 sent by writ petitioners to R1.

2. Mr. S. Murugan, learned counsel for writ petitioners, adverting to said representation, submits that the writ petitioners are encroachers and the encroachment is by way of occupation of Government poramboke land classified as 'cart track'.

3. From the submissions made by learned counsel for writ petitioners, the case file and our perusal of the e-Court website, it comes to light that there are as many as six earlier writ petitions on this subject and the details are as follows:

S. No.	W.P. No.	Name of Writ Petitioner	Prayer	Status/order
1	30404 of 2015	Muthukrishnan Shanmugam Anna Durai Muthu Sivalingam Harikrishnan Renugadevi Neduncheziyan Suresh	Challenging G.O.Ms.No.252, Revenue [LD6(20)] Department dated 08.07.2015 and for mandamus to first respondent to reclassify Enjambakkam Village S.No.253/2, 27 cents Cart-Track poramboke into Anatheenam poramboke as per Revenue Standing Order 26 Rule 11 and regularize their houses and granting assignment of house site patta to the petitioners.	Disposed of on 25.01.2016



S. No.	W.P. No.	Writ Petitioner	Prayer	Status/order
2	40317 of 2016	Pon. Thangavelu	Mandamus to RR 1 and 5 to remove encroachments in public road, Vettuvankeni, Injambakkam, Link Road in S.No.253/2 (Government poramboke cart road) in Chennai Corporation Zone XV, Corporation Division No.196 situated in Chennai Corporation limits	Dismissed on 17.11.2016
3	5609 of 2018	Pon. Thangavelu	Mandamus to RR 1 & 2 to clear all the encroachments in the Government land in Survey No.247 249 253/2 of Injambakkam Village encroached by RR 3 to 17	Adjourned to 12.09.2023 on 11.09.2023
4	26900 of 2023	Parthasarathy Durai	Mandamus forbearing RR 1 & 2 from evicting the petitioner from the property situated in Door No. 2/187, Hanuman Colony, comprised in S.No.249, Injambakkam Village in Sholinganallur Taluk in Chennai District without following the due process of law.	----
5	21775 of 2024	Pon. Thangavelu	Mandamus to RR 1 to 4 to consider petitioner's representations dated 10.08.2022 16.11.2022, 18.11.2022 and 22.11.2022 for implementing the drainage and drinking water scheme for which work contract has been issued and to remove all such encroachments made by the Respondents 5 to 20 in Injambakkam Vettuvankeni Link Road, Hanuman Colony (Rajan Nagar 1 st , 2 nd and 3 rd Streets), Injambakkam.	Notice ordered to RR 7,9,13 to 16 and 20 on 18.09.2024



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S. No.	W.P. No.	Writ Petitioner	Prayer	Status/order
6	39412 of 2024	Muthukrishnan, Shanmugam, Muthu, Annadurai, Nedunchezian, Hasir, Josephin Malathy, Harikrishnan, Renugadevi and Kamaraj	Challenging notice dated 12.12.2024	Dismissed on 27.12.2024

4. Learned counsel for writ petitioners refers to a writ petition filed by writ petitioners immediately prior to the captioned WP and that is W.P.No.39412 of 2024. In W.P.No.39412 of 2024, writ petitioners have assailed a notice dated 12.12.2024 bearing reference M.A.15.Na.Ka.No.B2/05343/2023 issued by R2 before us (R4 in that writ petition) *i.e.*, Commissioner, Greater Chennai Corporation (hereinafter 'GCC' for the sake of brevity). In and by order dated 27.12.2024, the earlier writ petition (W.P.No.39412 of 2024 along with WMPs thereat), came to be dismissed by another Hon'ble Division Bench. We deem it appropriate to reproduce said order which is reported in 2024:MHC:4232 (Neutral Citation), we do so and a scanned reproduction of the same is as follows:



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MHC:4232



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WP.No.39412 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

W.P.No.39412 of 2024

and

W.M.P.No.42678 & 42679 of 2024

1. R.Muthukrishnan
2. S.Sharmugam
3. J.V.Muthu
4. M.G.Annadurai
5. V.Nedunchezian
6. H.Nazir
7. S.Joesphin Malathy
8. C.Harikrishnan
9. M.Renugadevi
10. T.Kamaraj

... Petitioners

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary to Government,
Revenue Secretary,
Fort St.George,
Secretariat,
Chennai - 600 009.



WT.No.29412 of 2024

2. The District Collector,
No.62, Rajaji Salai,
Singaravelan Malligai,
4th Floor, Chennai - 600 001.
 3. The Thasildhar,
Sholinganallur Taluk,
Kancheepuram District - 600 001.
 4. The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai - 600 003.
 5. The Regional Deputy Commissioner (South),
Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai - 600 020.
 6. The Assistant Commissioner,
Corporation (Zone-15),
Sholinganallur Taluk,
Kancheepuram District.
 7. The Assistant Engineer,
Water & Sewage Board,
K.K.Salai, Zone - 15,
Sholinganallur, Chennai - 600 019.
 8. The Commissioner of Police,
Chennai City Police,
EVK Sampath Salai, Vepery - 600 007.
 9. The Inspector of Police,
J-8, Neelangerai Police Station,
Chennai - 600 015.
- ... Respondents



WP.No.39412 of 2024

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, calling for the records of the 4th respondent pertaining to the impugned notice in M.A.15.Na.Ka.No/B2/05343/2023 dated 12.12.2024 quash the same as illegal.

For Petitioners : M/s.D.Malarvizhi
For Respondents : Mr.T.K.Saravanan
Government advocate
[For R1 to R3]
: Mr.G.T.Subramanian
[For R4 to R6]
: Mr.M.Babu Muthumeeran
Additional Public Prosecutor
[For R8 & R9]

ORDER

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

The writ petition has been instituted challenging the notice dated 12.12.2024 issued to the writ petitioners/encroachers of Government Poramboke land classified as "Cart Track".

2. No writ against notice is entertainable unless such notice has been issued by an incompetent Authority having no jurisdiction or tainted with the allegations of malafides. Instead of submitting explanation along



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WP No.39412 of 2014



with the documents, if any, the petitioners have chosen to file the writ petition probably with an idea to prolong the removal of encroachments. Courts cannot aid such persons, who cause obstruction for implementation of developments made by the Authorities in public interest.

3. In the present case, the petitioners along with the other petitioners in W.P.No.30404 of 2015 have given an undertaking that *"I will vacate my house on notice of commencing project of widening road or erecting underground drainage system taken up for proposal is given and on the date on which the project is taken up for execution, till such time I may be permitted to be in possession. As on the date there is no proposal"*

4. The learned Counsel for the petitioners relied on the order passed by this Court dated 25.01.2016 in W.P.No.30404 of 2015. This Court in the year 2016 directed that the petitioners will vacate the premises, whenever the Authorities require the encroached portion for road widening/ drainage system etc.,



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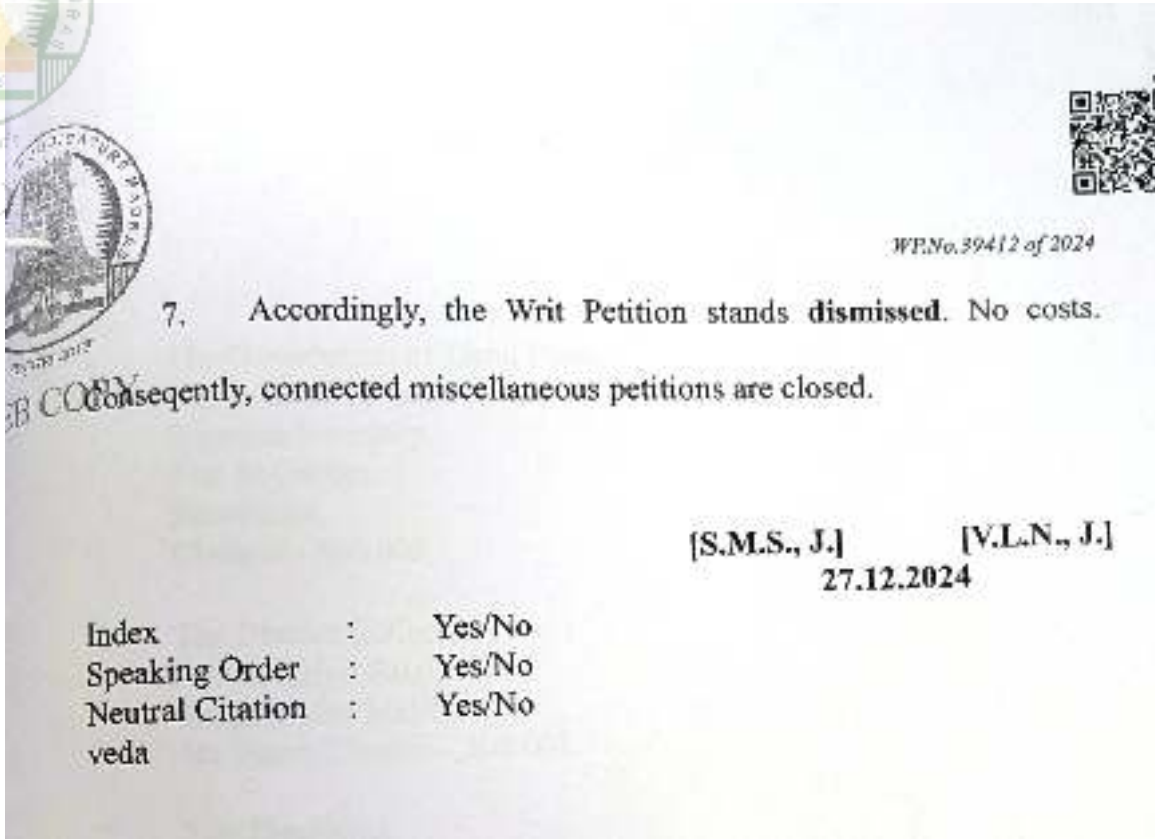
W.P.No.359412 of 2024

5. Such an order passed in the year 2016 would not be a ground to file the present writ petition for the purpose of setting aside the notice. Eight years lapsed from the date of passing of the order. Chennai City has developed a lot and various public interest projects are being implemented by the Government.

6. Admittedly, petitioners are the encroachers and in occupation of the Government Poramboke land classified as "cart track". That being so, the petitioners have not established even a semblance of legal right for the purpose of entertaining the writ petition. If at all the petitioners are landless poor persons and having no other property or source of income, they are at liberty to submit an application to the Tamil Nadu Urban Habitat Development Board, who in turn shall consider the case for providing alternate accomodation in any one of the available projects as per the eligibility and on payment of requiried charges as per the rules in force.



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5. A perusal of the aforementioned order brings to light *inter alia* the following points:

- i. Writ petitioners are 'admittedly' encroachers *qua* Government poramboke land classified as 'cart track' (*vide* paragraph 6);
- ii. Encroachment made by writ petitioners is an impediment and obstruction for development projects such as road widening which are in public interest (*vide* paragraph 2);
- iii. Writ petitioners, in an earlier writ petition (W.P.No.30404 of 2015), have given an undertaking that they will vacate their houses on notice of commencement of road widening project (*vide* paragraph 3); and



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- iv. If the writ petitioners are landless poor and they have no other property or source of income, they are at liberty to submit an application seeking alternative accommodation to R1 before us and R1 before us, shall, in turn, consider the same as per eligibility on payment of required charges and as per rules in force (*vide* paragraph 6).

6. This Court wanted to know from the learned counsel for writ petitioners legal right (if any) which the writ petitioners have. This Court wanted to know if the writ petitioners trace their request for alternative accommodation to any executive fiat such as Government Order or any other rules in force. Learned counsel for writ petitioners was unable to point out any such legal right or executive fiat.

7. In the scenario set out thus far, *i.e.*, in the aforesaid backdrop, this Court notices that the other Hon'ble Division Bench, *vide* order dated 27.12.2024, has already made it clear that R1 can consider request of writ petitioners for alternative accommodation as per eligibility, on payment of required charges and as per rules in force. Therefore, this Court is of the view that there is no need really to add to the same.

8. Be that as it may, in the light of the narrative thus far, it is clear that the pendency of said representation will not, in any way, aid writ petitioners to continue to squat in the encroached land. Removal



of encroachment will continue in accordance with law, writ petitione
having been show caused and their challenge to the notice having
failed and attained a legal quietus.

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9. *Ergo*, the sequitur is, captioned main WP fails to pass muster in the Admission Board and therefore, the same is dismissed. Captioned 'Writ Miscellaneous Petition' (hereinafter 'WMP' for the sake of brevity) thereat also perishes with the captioned main WP. In other words, captioned WMP thereat is also dismissed. Considering the facts and circumstances of the case and the nature of submissions, we refrain from imposing costs.

(M.S., J.) (K.G.T., J.)
05.02.2025

Index : Yes/No
Neutral citation : Yes
cad



To
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1. The Chairman
Tamil Nadu Urban Habitat Development Board
No.5, Kamarajar Salai
Chepauk
Chennai 600 005
2. The Commissioner
Greater Chennai Corporation
Ripon Buildings
Chennai 600 003



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W.P. No.2944 of 2



M. SUNDAR, J.

and

K. GOVINDARAJAN THILAKAVADI, J.

cad

W.P. No.2944 of 2025

05.02.2025