



W.P.No.3505 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2025

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THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

W.P.No.3505 of 2023

A.Jawahar

.. Petitioner

VS

- 1.The Commissioner,
Tambaram Municipality,
Tambaram, Chennai – 600 045.
- 2.The Collector,
District Collector Office,
Chengalpattu 603 001.
- 3.The Revenue Divisional Officer,
Office of RDO, Tambaram – 600 045.
- 4.Daniel Prabhakaran
- 5.Santhana Lakshmi

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus to direct the respondents to remove the unauthorised construction and encroachments made by the 5th and 6th respondents in public road with a breadth of 30 feet (20 feet as per approved layout and 10 feet as per Town Planning record) running from North to South starting from Chakkaravarthy Street, by considering the petitioner's representation dated 26.09.2022 within the time stipulated by this Court.



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For Petitioner : Mr.AR.Balaji
For Respondents : Mr.P.Srinivas, for R1
Mr.T.K.Saravanan,
Additional Government Pleader
for R2 and R3
Ms.N.R.Jasmine Padma
for Mr.L.Chandrakumar, for R4
No appearance for R5

ORDER

[Order of the Court was made by M.SUNDAR, J.]

Subject matter of captioned main 'Writ Petition' (hereinafter 'WP' for the sake of brevity) is a '30 feet wide piece of lane running from North to South starting from Chakkaravarthy Street, East Tambaram, Chennai - 600 059', which according to the writ petitioner is a public road (hereinafter 'said property' for the sake of convenience and clarity).

2. Learned counsel for R4/private respondent submits that said property is a passage and R4 has easementary rights qua said passage. We refrain from expressing any view or opinion on these rival contentions owing to the order which we propose to make.

3. To be noted, R5 has been duly served, name of R5 together with address as in the cause title is shown in the cause list but there



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is no representation for R5 either in physical Court or on VC (video conferencing) platform. To be noted, this is a hybrid hearing, which is a regular/routine/daily feature in this Court. We are informed by the Registry that R5 has not chosen to enter appearance through any counsel.

4. Mr.AR.Balaji, learned counsel on record for writ petitioner, Mr.P.Srinivas, learned counsel for R1, Mr.T.K.Saravanan, learned Additional Government Pleader for R2 and R3 and Ms.N.R.Jasmine Padma, learned counsel representing Mr.L.Chandrakumar, learned counsel on record for R4 are before us. This Court with the consent of all these counsel took up the main WP and heard out.

5. It comes to light that R4 filed a suit in O.S. No.78 of 2015 on the file of District Munsif Court, Tambaram inter-alia with a prayer restraining R1 from in any manner altering the nature and size of said property by introducing any project in the same affecting easementary right qua said property which R4 is claiming. To be noted, in this suit, there is a lone defendant and R1 is the lone defendant. After full contest, this suit came to be dismissed by the civil Court in and by judgment and decree dated 28.09.2021. Learned counsel for writ petitioner submits that the writ petitioner



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filed a implead petition in the aforementioned suit (implead petition dated 15.12.2015) but the fate of the same is not known.

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6. Learned counsel for R4 submits that against dismissal of the suit, R4 has filed a regular appeal suit under Section 96 of 'The Code of Civil Procedure, 1908 (Central Act V of 1908)' [hereinafter 'CPC' for the sake of convenience and clarity] vide A.S.No.2 of 2022 on the file of Sub Court, Tambaram and from the official e-courts website, we find that the appeal suit is pending.

7. Considering the facts and circumstances of the case, nature of the matter and the nature of the disputations and contestations before us which appear to turn heavily on facts, we are of the considered view that it would be appropriate to preserve all the rights and contentions of the writ petitioner to file a petition to implead himself in the appeal suit and contest the same, if so advised and so desired. In this regard, we make it clear that all questions are left open in the appeal suit. This also means that first appellate Court viz., Sub Court, Tambaram shall hear out the appeal on its own merits and in accordance with law untrammelled by this order.

8. We are of the considered view that the narrative thus far



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will suffice for giving a closure to the captioned main WP.

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9. Ergo, sequitur is, captioned WP is disposed of in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.) (R.S.V.,J.)
23.06.2025

Index : Yes/No
Neutral Citation : Yes/No
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To

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and
R.SAKTHIVEL, J.,**

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