



W.P.No.3861 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 16.07.2025

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.No.3861 of 2023
&
W.M.P.No.3938 of 2023

1. Mr.R.Divakaran

2. Mrs.Jessi Denny

... Petitioners

vs.

1.The District Collector
No.62, 4th Floor
Rajaji Salai, George Town
Chennai - 1

2. The Member Secretary (CMDA)
Thalamuthu Natarajan Illam
No.1, Gandhi Irvin Road
Egmore, Chennai - 600 008

3. The Commissioner
The Greater Chennai Corporation
Ribbon Building
No.53, Raja Muthaiah Road
Kannapar Thidal, Periamedu
Chennai - 600 003

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4. The Zonal Officer
Zone-3, Corporation of Chennai
Thattankulam Street
Bazaar Road, Madhavaram
Chennai - 600 060

5. Assistant Engineer
Corporation of Chennai
Thanikachalam Nagar
Ponnammanmedu
Chennai - 600 110

6. Mrs. Deepa

7. The Tahsildar
Madhavaram Taluk
Chennai

... Respondents

(R7 suo motu impleaded vide this order)

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing Respondents 1 to 5 to stop illegal construction by the sixth respondent in plot No.31/A part by encroaching the 24 feet public road situated in the Majestic Colony in front of the petitioners house and remove the encroachment and consequently restrain the 6th respondent from putting further illegal construction by encroaching the 24 feet public road.

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For petitioner : Mr. P.M.Bakthavatsalam

For Respondents : Mr.T.K.Saravanan
Additional Govt. Pleader R1 and R7

Mr.S.Ishaa
for Ms.P.Veena Suresh
Standing counsel for R2 (CMDA)

Mr.Arun Babu
Standing counsel for R3 to R5

ORDER

[Order made by M.SUNDAR, J.]

Subject matter of captioned 'writ petition' (hereinafter 'WP' for the sake of brevity) pertains to '24 feet public road in Majestic Colony, Ponniammanmedu, Chennai' (hereinafter 'said land' for the sake of convenience and clarity).

2. Mr. P.M.Bakthavatsalam, learned counsel on record for writ petitioner, submits that there is encroachment in said land, R6 is the alleged encroacher, representation has been made for removal of encroachment, the same has not yielded results and that has necessitated the captioned WP.

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4.. Mr. T.K. Saravanan, learned Additional Government Pleader, for R1, Ms.S.Ishaa, learned counsel representing Ms.P.Veena Suresh, learned Standing counsel for R2 and Mr.A.Aun Babu, learned Standing counsel for 'Greater Chennai Corporation' ['GCC' for the sake of brevity] i.e., R3 to R5 are before this Court.

5. Pursuant to order of earlier Division Bench, GCC (R4) has filed a status report and paragraph 4 thereat reads as follows:

'4. I submit that it is false to allege that the 6th respondent has not obtained the Planning Permission from the competent authorities to construct the house. The 6th respondent had very well obtained planning permission dated 11/11/2022 vide No.PPA/WDCNO3/03/09347/2022 issued by Greater Chennai Corproation. I submit that after receiving the complaint from the petitioner dated 25.01.2023 this respondent had issued a stop work notice dated 03/01/2023 under Sec 56 and 57 CCMC Act.1971. There was some minor deviations made by the 6th respondent and when they were informed about the said deviation they had rectified it and now the building is as per the planning permission issued by the



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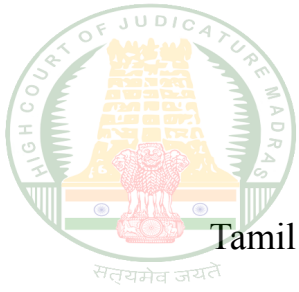
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Greater Chennai Corporation. The further allegations that there is an encroachment in the 24th Road in the Majestic Colony is absolutely false and there is no such construction made in the road by the 6th respondent.'

6. In the light of the above, we are of the considered view that jurisdictional Tahsildar should be directed to conduct a joint survey. For this purpose, we *suo motu* implead the Tahsildar, Madhavaram Taluk, Chennai as R7 and Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for R7 also.

7. Mr. T.K. Saravanan, learned State counsel, submits, on instructions that survey of said land is in the anvil and depending on the survey outcome, action for removal of encroachment (if found) will be initiated.

8. Learned State counsel also submits that a survey report will be drawn up by R7 (Tahsildar) and in the survey report, if any encroachment is found, alleged encroachers, be it private respondent (R6) or any other person will be put on notice *i.e.*, show caused *vide* Section 128 of the amended



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Tamil Nadu Urban Local Bodies Act, 1998 (hereinafter 'The TNULB Act'

WEB COPY for the sake of brevity).

9. This means that private respondent (R6) and/or any other encroacher(s) will have a say and they will be given an opportunity to put forth their version. In this view of the matter, we make it clear that we are not passing an order which is touching upon the rights of private respondent in any manner and on the contrary, we are preserving all the rights and contentions of private respondent (R6). Therefore, we dispense with notice to private respondent (R6).

10. In the light of the aforesaid scenario, with the consent of learned counsel on either side, captioned WP is taken up.



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11. The following order is made:

- i. Survey *qua* said land, after putting all concerned on notice, will be concluded as expeditiously as the official business of R7 would permit but in any event within a period of eight weeks from today *i.e.*, on or before 10.09.2025 and a survey report will be drawn up by R7;
- ii. In the survey report, if any encroachment *qua* said land is noticed, be it by private respondent or any other person/entity, they will be put on notice *inter alia vide* Section 128 of the TNULB Act which, in effect, means that the alleged encroacher would be given an opportunity and an order will be made by R1 after considering the version of the alleged encroacher or any other person/entity, on or before 05.11.2025 and thereafter, law will take its own course *qua* removal of encroachments, if that be so; and



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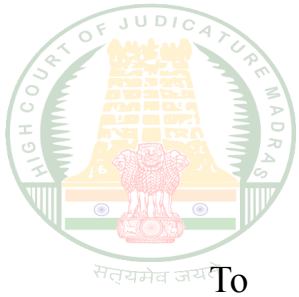
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iii. Though obvious, as alluded to *supra*, we make it clear that we preserve all the rights and contentions of the private respondent and/or any other noticee *qua* the TNULB Act, if that be so.

Captioned WP stands disposed of in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.) (H.C.,J.)
16.07.2025

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HEMANT CHANDANGOUDAR, J.

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