



W.P.No.9216 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2025

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THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

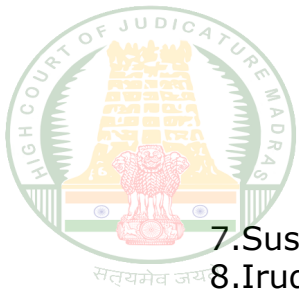
W.P.No.9216 of 2025
and
W.M.P. Nos.10323 and 10325 of 2025 in W.P. No.9216 of 2025

S.Arumugam

... Petitioner

Vs.

- 1.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai.
- 2.The Revenue Officer,
Zonal Office, Zone-V,
Corporation of Chennai,
Royapuram, Chennai – 600 013.
- 3.The Commissioner (North),
Corporation of Chennai, Zone – V,
Royapuram, Chennai – 600 0013.
- 4.The Chairman,
Chennai Water Supply & Sewage Board,
Pumping Station Road,
Chennai – 600 002.
- 5.Selvi
- 6.Govindammal



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7.Susairaj
8.Irudhayamary
9.Kasthuri
10.Mahalakshmi

11.The Tahsildar,
Tondiarpet Taluk,
Chennai – 600 081.

... Respondents

(R11 impleaded suo motu vide
order dated 24.03.2025 made in
W.P.No.9216 of 2025 and
W.M.P. Nos.10323 and 10325 of 2025)

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Mandamus to direct the respondents 1 to 4
to remove the encroachments of respondents 5 to 10 on the road
between Plot No.3 and 4 earmarked in the Corporation tenement plan
(sketch), in particular, the encroachment made by the 5th respondent
on 27.03.2024 availing drainage connection illegally without obtaining
proper permission from the respondents 1 to 4 as per the proceedings
of the 1st respondent bearing No.Ni.Ma.U.Thu.Na.Ka.No.Le7/220/2025
dated 06.02.2025 and consequently restore the common drainage
bore well hand pump, metro water line and street light provided in the
street in between the Plot No.3 and 4 at Model Line, Cemetery Road
comprised in R.S.No.1754/1, 1752/2 Part of Tondiarpet Division,
Chennai.

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For Petitioner : Ms.Anna Mathew
For Respondents : Ms.Rekha Roshini G
for Mr.S.Gopinathan,
Standing Counsel for R1 to R3
Ms.V.Vijayalakshmi,
Standing Counsel for R4
Mr.T.K.Saravanan,
Additional Government Pleader
for R11

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 'land comprised in R.S.Nos.1754/1, 1752/2 Part of Tondiarpet Division of Chennai Corporation, Chennai' (hereinafter 'said land' for the sake of convenience and clarity).

2. Ms.Anna Mathew, learned counsel on record for writ petitioner submits that said land is a public road, there is encroachment in said land and that the alleged encroachers are private respondents (R5 to R10).

3. Repeated requests and representations to official respondents have not yielded results and that has necessitated captioned main WP with a mandamus prayer is learned counsel's say.

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4. Issue notice to official respondents.

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5. Ms.Rekha Roshini G, learned counsel representing Mr.S.Gopinathan, learned Standing Counsel accepts notice for R1 to R3 and Ms.V.Vijayalakshmi, learned Standing Counsel accepts notice for R4.

5. We find that survey qua said land is imperative and therefore we suo motu implead Tahsildar, Tondiarpet Taluk, Chennai – 600 081 as R11. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for R11.

6. This Court is of the considered view that survey of said land by R11 is to be done and survey report has to be drawn up and if encroachment is found in survey, further action in accordance with law can follow.

7. Learned Additional Government Pleader submits that survey can be done by R11 but if encroachment is found in the survey, action has to be initiated only by Greater Chennai Corporation (GCC) as said land i.e., public road vests in GCC. This submission is recorded.

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8. Learned State counsel also submits that survey can be conducted in four weeks from today i.e., on or before 21.04.2025.

9. In the survey, if encroachments are noticed and if action for removal of encroachment is initiated by GCC, be it private respondents/ R5 to R10 or any other alleged encroacher, he/she or such entity has to be put on notice and given an opportunity. In this regard, learned Standing Counsel for GCC who accepts notice for R1 to R3 submits that action if any will be under Section 128 of TNULB Act. This means that if encroachments are found alleged encroachers be it R5 to R10 or any other individual/entity will be show caused by issue of Show Cause Notice (SCN) returnable in fifteen days.

10. In the fifteen days window, if any representation is received R1 will have to make final orders considering the representation. For the sake of convenience and clarity, we deem it appropriate to extract and reproduce Section 128 of TNULB Act as amended and as it stands today:



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'128. Power to remove encroachment from public place. -

(1) The Commissioner may, -

(a) remove without any notice any movable temporary structure, enclosure, stall, booth, any article whatsoever hawked, exposed or displayed for sale or any other thing whatsoever by way of encroaching **street, public place, water body, tank, other water resources or any land** belonging to or vested with the municipality with the municipal limit;

(b) remove any immovable structure whether permanent or of temporary nature encroaching **street, public place, water body, tank, other water resources or any land** belonging to municipality or vested with the municipality within the municipal limit, after issuing a show cause notice for such removal, returnable within a period of **fifteen days** from the date of receipt thereof:

Provided that the Commissioner shall consider any representation received within the time limit, before passing final orders.

(2) Whoever makes any encroachment in any land or space (not being private property) in **any public street, water body, tank, other water resources or any land** belonging to or vested with the municipality within the municipal limit, shall, on conviction, be punished with imprisonment which shall not be less than



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one year but which may extend to three years and with fine which may extend to [fifty thousand rupees]:

Provided that the Court may, for any adequate or special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than one year.'

11. When R5 to R10 and/or any other encroacher is put on notice or visited with SCN, all the rights and contentions of R5 to R10 and/or any other encroacher will stand preserved and all questions are left open. Therefore, this order does not touch upon the rights of R5 to R10 and/or any other person who may be put on notice pursuant to survey if encroachment is found. In this view of the matter, notice to R5 to R10 is dispensed with.

12. Considering the limited scope of the matter, captioned WP is taken up in the Admission Board with the consent of learned counsel for writ petitioner and learned counsel for official respondents.

13. In the light of the narrative and discussion thus far, the following order is made:



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13.1 R1 shall conduct a joint survey of said land after putting on notice the writ petitioner as well as R5 to R10;

13.2 Learned State counsel submits that the aforementioned exercise shall be completed within four weeks from today i.e., on or before 21.04.2025;

13.3 Post aforementioned exercise, survey report shall be drawn up;

13.4 If encroachments are found, suitable action more particularly action under Section 128 of TNULB Act shall be initiated by GCC within four weeks from today i.e., on or before 19.05.2025;

13.5 As already alluded to supra, rights of all private respondents and or any other person/entity being visited with SCN under Section 128 of TNULB Act are preserved, all questions are left open and and it is open to



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the noticees to send representation, which has to be considered by R1 and 'final orders' has to be made by R1 under proviso to Section 128(1)(b).

14. Captioned WP is disposed of in the aforesaid manner with the aforementioned directives and recording the stated position of learned State counsel. Consequently, captioned Writ Miscellaneous Petitions (WMPs) thereat are disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
24.03.2025

Index : Yes
Neutral Citation : Yes
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To

- 1.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai.
- 2.The Revenue Officer,
Zonal Office, Zone-V,
Corporation of Chennai,
Royapuram, Chennai – 600 013.

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3.The Commissioner (North),
Corporation of Chennai, Zone – V,
Royapuram, Chennai – 600 0013.

4.The Chairman,
Chennai Water Supply & Sewage Board,
Pumping Station Road,
Chennai – 600 002.

5.The Tahsildar,
Tondiarpet Taluk,
Chennai – 600 081.



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**M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**

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