



W.P.No.10098 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2025

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

W.P.No.10098 of 2021
&
W.M.P.No.10727 of 2021

1. Mrs.D.Kasthuri
2. Mrs.V.Yuvabharathi

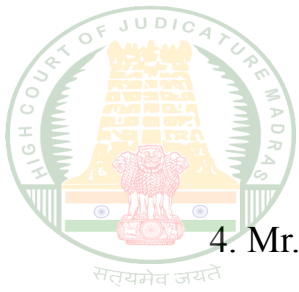
... Petitioners

vs.

1. The Commissioner
Greater Chennai Corporation
Rippon Building
Chennai - 600 003

2. The Zonal Officer
Zone-X
Greater Chennai Corporation
LB Road, Adyar
Chennai - 600 020

3. The Tahsildar
Velacherry Taluk
Velacherry
Chennai - 600 042



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4. Mr.Umapathy

5. Mrs.Thenmozhi

6. Mrs.Sujatha Sivakumar

7. Mr.Murugesan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing 1st and 2nd respondents to remove the encroachments made by Respondents 4 to 7 on the Indira Salai (Bharathi Road), Kamarajapuram, Velachery, Chennai - 600 042 as per the provisions of the Chennai City Municipal Corporation Act and the Rules made thereunder.

For petitioners : Mr.Jaishankar Ramakrishnan

For Respondents : Mr. S.Gopinathan
for R1 and R2

Mr.K.Suresh
Government Advocate for R3

Mr.R.Natarajan for R6

No Appearance for R4, R5 and R7

ORDER

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

Subject matter of captioned 'Writ Petition' ['WP' for the sake of brevity] is 'lands comprised in T.S.Nos.46 and 48, both in Ward No.001,

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Velachery (Part 1), Velachery Taluk, Chennai District' [hereinafter 'said lands' for the sake of brevity and convenience].

2. Prayer in the captioned WP is one for mandamus qua official respondents as regards 'Removal of Encroachment' ['RoE'] qua said lands.

3. Mr.Jaishankar Ramakrishnan, learned counsel for writ petitioners adverting to photocopies of revenue records (extracts from 'Permanent Land Register' {PLR}) contends that said lands are Government Poramboke lands.

4. Learned State counsel for official respondents, on instructions, submits that a survey of said lands has already been done on 11.07.2025 and encroachments have been noticed.

5. Mr.R.Natarajan, learned counsel for private respondent (R6) points out that there are as many as three civil suits qua said lands in which either of the writ petitioners is a party and three suits have either been dismissed or decreed but there is no whisper about the three suits in the writ affidavit. Learned counsel vehemently contends that this is suppression and an order dated 07.02.2019 in W.P.No.25355 of 2018 in *N.Umapathy's* case [*N.Umapathy Vs. The Secretary to Government,*



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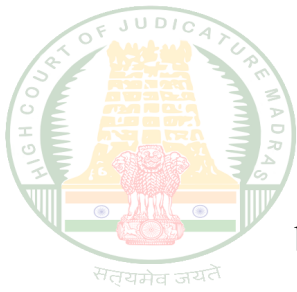
Revenue Department] rendered by another Hon'ble Division Bench was

pressed into service in support of this contention i.e., contention to say that the captioned WP should be dismissed on the ground of suppression.

6. At the outset, we find that the factual position regarding earlier suits are as follows:

i) O.S.No.1525 of 1994 was filed by first writ petitioner against four private individuals with mandatory injunction prayer and the mandatory injunction is for removal of constructions put up in suit passage and the suit property has been described as Old Door No.13, New Door No.16, Bharathi Street, Sankaran Avenue, Velacherry Road, Madras -32 in Corporation Division Old No.147, New No.141 in Guindy Mambalam Taluk with right to use 5 feet common passage from 30 feet road in Sankaran Avenue;

ii) O.S.No.2366 of 1994 was filed by vendor of R6 (R.Nirmala) with a bare injunction prayer. In this suit, I writ petitioner (Kasthuri) is the lone defendant. This suit is for permanent injunction qua possession and the suit property has



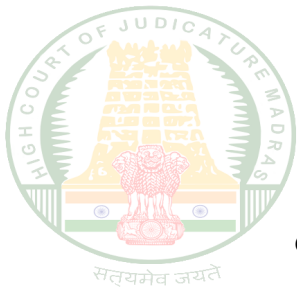
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WEB COPY been described as T.S.Nos.47, 48, 49 and 50 (part) in Plot Nos.115, 115-A, 114, 113 part, in Velachery Village, Mambalam Guindy Taluk.

iii) There was joint trial of aforesaid two suits and XIV Assistant Judge, City Civil Court, Chennai in and by a common judgment dated 31.12.2002 dismissed the former suit (O.S.No.1525 of 1994) filed by the writ petitioner and decreed the latter suit (O.S.No.2366 of 1994) filed by vendor of R6 (Nirmala);

iv) We notice that as regards said lands, T.S.No.48 forms part of aforesaid two decrees;

v) Third suit is O.S.No.1387 of 2009 was filed by the writ petitioners with permanent injunction prayer qua possession. The survey numbers are T.S.Nos.47, 48 and 49. In this suit filed by the writ petitioners, Chennai Corporation is D4. Neither R6 nor vendor of R6 (Nirmala) are parties. The suit was originally decreed on 12.02.2016, carried in appeal by D2 (Murugesha Naicker) vide A.S.No.240 of 2016, which was



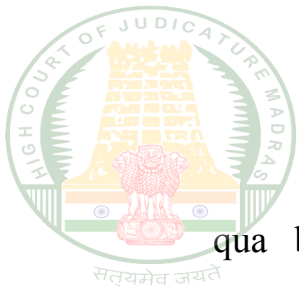
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disposed of by the first appellate Court by judgment dated 22.12.2017 (first Appellate Court is XIX Additional Judge's Court, City Civil Court, Chennai) but there was a remand setting aside the decree. Post remand, this suit O.S.No.1387 of 2009 came to be dismissed for default by III Assistant Judge's Court, City Civil Court, Chennai on 26.07.2019 and we are informed that this has attained quietus.

7. From the above, it is clear that there are three suits pertaining to at least one survey number qua said lands, namely T.S.No.48 but writ petitioners have not made a whisper about the suits though first writ petitioner is plaintiff in one suit and both writ petitioners are plaintiffs in another suit. There will be allusion about this infra elsewhere in this order.

8. Be that as it may, as regards said lands, as already alluded to supra, photocopies of revenue records (PLR) placed before us demonstrate that said lands have been classified as Government Poramboke and learned State counsel submits that survey has already been done on 11.07.2025



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qua both survey numbers of said lands (T.S.Nos.46 and 48) and encroachments have been noticed. Learned State counsel submits that RoE proceedings are in the anvil.

9. Elsewhere infra in this order, we would be directing a joint survey in the presence of all the private respondents and drawing up of a report and commencement of RoE proceedings thereafter, if encroachment is noticed qua said lands. Commencement of RoE proceedings necessarily means alleged encroachers being show-caused and given opportunity under appropriate / applicable statute.

10. Reverting to writ petitioners not mentioning about the three suits in the writ affidavit, we have no hesitation in saying that such an approach is unacceptable and deserves to be deprecated. The faint submission of learned counsel for writ petitioners that the writ petitioners are old and illiterate is far from convincing as the writ petitioners have been litigants in civil suits as already alluded supra. However, as regards *N.Umapathy's* case pressed into service by learned counsel for R6, the same is a case of suppression. In the case on hand, we find it to be a omission nay a serious omission but does not qualify as suppression, as the writ petitioners really



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do not stand to gain by the omission. Therefore, *N.Umapathy*'s case is distinguishable on facts. We deem it appropriate to impose costs on the writ petitioners for the serious omission but we are of the view that it does not warrant dismissal of the writ petition as revenue records *prima facie* show that said lands are Government poramboke lands but we hasten to add that we are not expressing any view or opinion now.

11. We also find that none of the three suits pertain to declaration of title. As already alluded to supra elsewhere, while two suits are for bare injunction qua possession, another suit is for mandatory injunction qua removal of encroachment. If even one of the suits had been for declaration of title we might have applied *N.Umapathy*'s case and held against the writ petitioners on the ground of suppression.

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

- i) A joint survey shall be conducted by R3 within a period of eight weeks from today i.e., on or before 08.09.2025 after putting on notice private respondents and any other person/s who may be interested/concerned;



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ii) Survey report shall be drawn up. In the survey report, if any encroachment is found to be made either by private respondents (R4 to R7) or by any other person, appropriate action for RoE under appropriate / applicable Statute, by putting on notice the parties concerned, shall be commenced within eight weeks therefrom i.e., on or before 10.11.2025;

iii) Since R4, R5 and R7 are not before this Court, all their rights and contentions are preserved untrammelled by this order. All rights and contentions of R6 also stand preserved;

iv) In the survey, if no encroachment is found, that would be curtains on the matter and it will be open to the writ petitioners to challenge the survey report, if so advised and if so desired.

v) It is open to any one show-caused / put on notice as regards RoE proceedings, to press into service judgments and decrees in the aforementioned suits in response to being



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show-caused or in response to being given an opportunity and the same will be considered on its own merits and in accordance with law untrammelled by this order.

Captioned WP disposed of in the aforesaid manner. Consequently, the connected WMP is disposed of as closed. The writ petitioners are directed to pay of costs for Rs.10,000/- (Rupees Ten Thousand Only) to the Blue Cross of India, No.72, Velachery Road, Guindy, Chennai -32 on or before 28.07.2025.

[M.S., J.]

[H.C., J.]

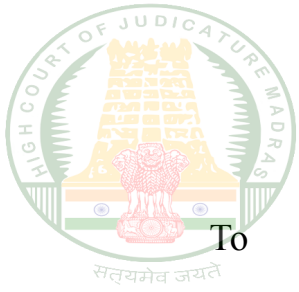
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Index : Yes / No

Neutral Citation : Yes

Speaking order / Non-speaking order

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