



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-08-2025

CORAM

THE HON'BLE MR JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI

W.A No. 2520 of 2025

Pushpa Sundaram
W/o.Sundaram, No.5A, New West Street, Avvai Nagar,
Choolaimedu, Chennai-94.

..Appellant

Vs

1. The Commissioner
Corporation of Chennai, Rippon Building, Chennai.
2. The Commissioner,
Ambattur Municipality, Ambattur,
Chennai.
3. The Asst. Engineer, Zone-7,
Mogappair East, Corporation of Chennai,
Chennai-37.
4. The Tahsildhar,
Ambattur Taluk, Ambattur,
Chennai.

..Respondents

Prayer : Writ Appeal under Clause 15 of Letters Patent to set aside the order passed by this Honble Court dated 08-12-2021 made in WP.No.6436 of 2015.

For Appellant :	Mr.G.Karthikeyan, Senior Counsel for Ms.A.Jagadeeswari
For Respondents :	Ms.P.T.Ramadevi, Standing Counsel -for RR 1 to 3 Mr.Vadivelu Deenadhayalan, Addiitional Government Pleader - for R4

Judgment

(Judgment of the Court was delivered by R.Suresh Kumar J.)

This writ appeal is directed against the order passed by the Writ Court dated 08.12.2021 made in W.P.No.6436 of 2015.



2. The issue relates to a land to the extent of 1200 Sq.ft in S.No.156A and another part of the land measuring 1200 Sq.ft in S.No.130A totalling 2400 Sq.ft at S.No.396/19 at Mugappair Village, Saidapet Taluk. It is the claim of the appellant / writ petitioner that the land has been purchased by her, which has been duly registered by the concerned registering authority. When that being so, according to the appellant / writ petitioner, all of a sudden the respondent ie., the 4th respondent Tahsildar for the requiring Department ie., Corporation of Chennai for the public purpose of laying a road, had interfered with the peaceful possession and enjoyment of the appellant / petitioner and thereby, despite the resistance having been shown by the writ petitioner / appellant, the land has been taken by the respondents for the purpose of laying the road and the road has been laid.

3. Only at that juncture, the appellant / writ petitioner, had approached the writ Court seeking for a writ of Mandamus directing the respondents to give re-possession of the petitioner's land. The said writ petition was heard and disposed by the learned Writ Court by order dated 08.12.2021.

4. Assailing the said order, Mr.G.Karthikeyan learned Senior Counsel appearing for the appellant would contend that it is not a Government or Circar Poramboke land as claimed by the respondents, but it is a Patta land and all documents are in favour of the vendor of the appellant including Adangal, which clearly establishes that the land in question belongs to the vendor of the appellant



from whom it has been purchased for valid consideration and the sale also has been effected by way of a registration of the sale deed. Therefore, it is the conclusive proof to establish the title over the property. When that being so, if at all the respondents wants to take the property belongs to the appellant for the public purpose of laying a road, the Government being an eminent domain, has got every right to acquire the land under the provisions of the Land Acquisition Act. They could have invoked the provisions of the Land Acquisition Act, instead, they straight away taken the land under the guise of stating that the land belongs to the Government as Government Poramboke land.

5. When that being the issue, it should have been resolved no doubt by the Civil Court, but no time has been given to the writ petitioner / appellant to even approach the Civil Court. Assuming that the respondents claim right over the property as if it is a Government Poramboke land, when the appellant is having valid documents to establish her title, those issues can be resolved only by the Civil Court. Without resorting to the said course of action since the land has been taken by the respondents and suddenly it has been utilized for the public purpose, it reflects the high handedness on the part of the respondents, he contended.

6. However, the learned Standing Counsel appearing for respondents 1 to 3 and the learned Additional Government Pleader appearing for the fourth respondent would submit that, in the land records it has been clearly shown as 'Circar Poramboke'. When it is 'Circar Poramboke' land if at all it is in the occupation or



encroachment or any 'X' or 'Y', much less the present appellant / writ petitioner, ultimately her entitlement is only to get a notice under the provisions of the Land Encroachment Act. Otherwise, she cannot claim any right over the property, that too for seeking compensation under the provisions of the Land Acquisition Act.

7. These aspects having been considered, the learned single Judge has rejected the plea raised by the writ petitioner / appellant and ultimately in Para 11 of the order, had in fact indicated that, if at all the petitioner / appellant wanted to establish her right over the property, it is open for her to approach the Civil Court, but, unless and until the title is proved in favour of the appellant, the Writ Court cannot interfere with the proposal of the taking away of the land by the Government for public purpose and therefore the said order of the learned single Judge does not warrant interference at the hands of this Division Bench, they contended.

8. We have carefully considered the submissions made by the learned counsel for both sides and have perused the materials placed on record.

9. It is the claim and counter claim insofar as the title of the property in question. The writ petitioner / appellant claims it is a private property and she has purchased the property for valid consideration and to establish the same, she has documents to show. However, it is the definite stand of the respondents that the land belongs to the Government, since the same is classified as 'Circar Poramboke' and therefore there is no need to give any notice under the provisions of the Land



Acquisition Act or invocation of the Land Acquisition Act itself does not arise.

Therefore, the writ petitioner / appellant does not have right over the property unless and until her title is perfected by a declaratory decree to be passed by the Civil Court in this regard and since that attempt has not been made by the appellant, she has no locus even to maintain the writ petition. These aspects since has been considered in proper perspective by the learned Judge, the order which is impugned herein need not be interfered with, is the contention of the respondents.

10. The above contentions made by the respondents also appears to be justifiable in the given circumstances. At the same time, insofar as the petitioner / appellant is concerned, what are all the documents that are in her possession to establish her right over the property can be utilized by way of evidence to be let in only before the Civil Court and not before this Court exercising jurisdiction under Article 226 of the Constitution of India or in continuation under Clause 15 of the Letters Patent.

11. Therefore, we are of the view that as has been rightly observed by the learned Judge in Para 11 of the order impugned, the writ petitioner / appellant shall approach the competent civil Court by filing appropriate civil suit for getting declaratory decree with respect to the property in favour of the writ petitioner / appellant.



12. Admittedly, since the property has already been utilized for the public purpose, at this juncture we are not inclined to make any interim arrangement. However, the writ petitioner / appellant is at liberty to approach the Civil Court and accordingly she can file a civil suit, where, it is open to the writ petitioner / appellant to let it evidence which are in place at the hands of the appellant to establish her title over the property and in the said suit, the Government as well as the requiring department ie., Corporation of Chennai be made as party defendants. It is needless to mention that, once the Civil Court decides the issue and passes a judgment and decree, where, if ultimately the writ petitioner / appellant is able to sustain the stand taken by her that the property belongs to the appellant and to that extent if the civil Court comes to a conclusion and passes a judgment and decree, that will pave the way for the petitioner / appellant to seek compensation under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

13. It is further made clear that, while deciding the said suit, the findings made by the learned Single Judge in the order dated 08.12.2021 would not stand in the way, which means, the Civil Court shall independently decide the suit to be filed by the writ petitioner / appellant based on the strength of the evidences let in by both sides and accordingly it can be decided expeditiously from the date of institution of the suit.



14. With the above observations and directions, this writ appeal is disposed

of. No costs.

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(R.S.K.,J.) (K.G.T.,J.)
28-08-2025

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

KST



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