



W.P.No.11048 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 19.03.2025

CORAM

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

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.No.11048 of 2024

A.Uma Rani
W/o.A.Jayakumar
Door No. 118/A
Ranganathapuram
Periyanaickenpalayam
Coimbatore North
Sri Ramakrishna Vidyalaya
Coimbatore North, Coimbatore -641020
Rep. By Her Power of Attorney
M.Sakthi Prasad,
S/o. Late Muthukrishnan,
Door No. 5/310, Merku Thottam,
Sennappasetti Pudur Village
Sulur Taluk, Coimbatore

... Petitioner

VS.

1. The District Collector
Coimbatore
Coimbatore District
2. The Joint Director
Directorate of Town and Country Planning
Ganapathy, Coimbatore

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3. The District Local Planning Authority
O/o. District Collector
Coimbatore
Coimbatore District

4. The Tahsildar
Mettupalayam
Mettupalayam Taluk
Coimbatore District

5. The Block Development Officer
Mettupalayam
Mettupalayam Taluk
Coimbatore District

6. The President
Kemmarampalayam Panchayath
Mettupalayam Taluk
Coimbatore District

7. M/s.Kaviya Garden Residence Association
Rep. By its President
Mr.Veluchamy
Vijayanagaram
Kemmarampalayam Village
Mettupalayam Taluk
Coimbatore District

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of mandamus directing the respondents 1 to 6 to take appropriate action to remove the encroachment of compound wall put up by the 7th respondent in the 40 feet width road admeasuring to an extent of



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34020 running North to South to reach the District Panchayat Road, which is situated on the Eastern side of the entire extent of Kavya Garden layout comprised in Survey No. 246/C situated at Kemmarampalayam Village, Mettupalayam Taluk, Coimbatore District obstructing the access to the public road and open the same for public use by considering the petitioner's representation dated 5.1.2024.

For Petitioner : Mr.M.Manohar

For Respondents : Mr.T.K.Saravanan
Additional Government Pleader
for R1 to R6

Mr.S.Sathyakumar
for Ms.V.Srimathi for R7

ORDER

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

Mr.M.Manohar, learned counsel for writ petitioner is before us.

2. At the outset, we find that captioned main 'Writ Petition' ['WP' for the sake of brevity] has neither been admitted nor has notice regarding admission been issued.

3. Proceedings made in the listing on 23.04.2024 is as follows:

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THE HON'BLE CHIEF JUSTICE

and

J.SATHYA NARAYANA PRASAD,J.

*Learned counsel appearing for the petitioner
seeks time.*

*At the request of learned counsel appearing for
the petitioner, list the matter on 21.06.2024.*

(S.V.G.,CJ)

(J.S.N.P.,J)

23.04.2024'

4. Thereafter, the matter was listed on 19.02.2025 and 05.03.2025 when the matter was re-notified.

5. Registry has committed the following errors:

i) Captioned matter ought to have been listed in the Admission Board but it has been listed in the Regular Board;

ii) R7 (private respondent) has filed Vakalatnama, Registry has accepted the Vakalatnama and has shown the name of learned counsel for R7 in the cause list. This is completely contrary to the obtaining procedure, which is codified.

In this regard, this Court with the intention of ensuring that lapses of this nature do not recur, directs Registry to sensitize the staff concerned qua



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acceptance of vakalatnama.

WEB COPY 6. Reverting to the case on hand, learned counsel for writ petitioner submits that there is encroachment in 'S.No.246/C in Kemmarapalayam Village, Mettupalayam Taluk, Coimbatore District' [hereinafter 'said land' for the sake of convenience] and that the alleged encroachment has been made by R7.

7. It is further submitted that said land is road, which vests with the local body (Panchayat).

8. Issue notice to respondents.

9. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for R1 to R6 (official respondents), Vakalatnama already filed for R7 and erroneously accepted by the Registry is now taken note of. Mr.S.Sathyakumar, learned counsel representing Ms.V.Srimathi, counsel on record for R7 is before this Court.

10. We heard all the aforementioned counsel. Owing to the limited scope of the captioned main WP, main WP is taken up at this admission stage with the consent of all the aforementioned counsel.



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11. Learned State counsel submits that a survey qua said land is now in the anvil and if any encroachment is found in the survey, suitable action under 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity} will be initiated.

12. In the light of the stated position of the learned State counsel we are of the considered view that to give a closure to captioned WP, it will suffice if the stated position of learned State counsel is recorded. The following order is made:

i) A joint survey qua said land shall be conducted by R4 (Tahsildar, Mettupalayam Taluk) after putting on notice both writ petitioner and R7;

ii) A survey report shall be drawn by R4;

iii) If any encroachment qua public road is noticed in the survey, proceedings shall be commenced under said 1905 Act within two weeks from today i.e., on or before 16.04.2025. Commencing proceeding under said 1905 Act would necessarily mean issuance of notice under Section 7 of said 1905 Act, which in turn means that R7 will be show-caused;



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iv) We make it clear that all the rights and contentions of

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v) Proceedings under said 1905 Act (if any and if that be so) shall be continued and concluded on its own merits and in accordance with law as expeditiously as the official business of the respondents would permit.

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

(M.S.,J.)

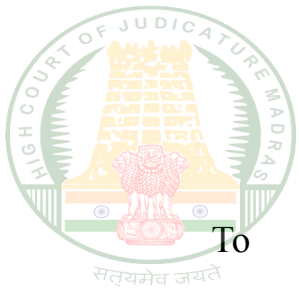
(K.G.T.,J.)

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Index : Yes/No

Neutral Citation : Yes/No

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

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