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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-12-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

WP No. 18915 of 2025

1. C.James

2.S. Sampath

3.Regina Selvam

4.B. Sargunavathy

5.Abdul Latif

6.K. Manimaran

7.S. Gopinath

Petitioner(s)

Vs

1. The Secretary To Government
(Housing And Urban Development) Department
Secretariat, Fort St George Chennai 600 009

2.The Commissioner
Chennai Corporation
Ripon Buildings Chennai 600 003



3.The Zonal Officer
Chennai Corporation Zone VI, Division 65
No.5, Andersen Street
Ayanavaram Chennai 600 023

4.The Chairman Cum Managing Director
Tamil Nadu Slum Clearance Board
No.5 Kamarajar Salai Chennai 600005

Respondent(s)

PRAYER

Declare that the action of the respondents 1 to 4 closing the passage and ingress and egress are illegal, unlawful, violation of rule of law and principles of natural justice and consequently restore the properties of the petitioners in the usage of 20 feet width road running from Sathiyavanimuthu Road Extension (25th street), leading up to Door No 38, 25th street, CKM colony, abutting the pond at GKM Colony, Chennai-82 facing east of their properties falling with the Chennai corporation limits in present Division No.65 under the guise of rejuvenation of GKM colony pond park.

For Petitioner(s): Mr. T.S. Rajamohan

For Respondent(s): Mr. Agp For R1 [Memo Not
Filed]D.Ravichander
Special Government Pleader for R1
Mr.M.Suresh Kumar
Additional Advocate General
asst. by
Mr.D.B.R.Prabhu
Standing Counsel for GCC for R2 & 3
Mr.N.Jothi
Senior Counsel for
Mr.B.Balaji
Standing Counsel for TNHB for R4



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ORDER
(Order of the Court was made by S.M.Subramaniam J.)

The nature of relief sought for in the present writ petition, at the first instance needs to be looked into. A writ of declaration has been instituted to declare that an action of respondents 1 to 4 in closing the passage or ingress and egress are illegal, unlawful, violation of rule of law and principles of natural justice and consequently, restore the properties of the petitioners in the usage of 20 feet width road running from Sathiyavanimuthu Road Extension (25th street), leading up to Door No.38, 25th street, CKM colony, abutting the pond at GKM Colony, Chennai-82 facing east of their properties falling with the Chennai corporation limits in present Division No.65 under the guise of rejuvenation of GKM colony pond park.

2. The declaratory relief seeking easementary right is a disputed fact deserves to be adjudicated in a trial nature proceedings. High court in exercise of the powers of judicial review under Article 226 cannot adjudicate disputed facts of civil nature. However, writ petition, since came to be instituted against State, this Court has to examine whether petitioners have acquired right over the streets, which is sought to be declared in the prayer



column in the present writ petition.

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3. The facts in brief would show that lands comprised in Survey Nos.379, 380 and 381, presently Block No.32/TS No.3, Peravallur Village, Survey No.153, Ayanavaram Village, Survey No.14 at Konnur village comprised of 139.07 acres of defence land, for which sanction was conveyed by Government of India, Ministry of Defence (ML & C Dept) New Delhi vide letter dated 31.03.1977 to be conveyed for allotment of members of the Sri Kusuma Haranath Ex-servicemen association, General Kumaramangalam Colony in consultation with State Government/local authority, on payment of a sum of Rs.27,80,000/- at the rate of Rs.20,000/- per acre. Collection of value of land was initially required to be caused by Madras Metropolitan Development Authority, which has to be re-transmissioned to Military estate officer, Madras

4.Vide order dated 31.03.1977, Government authorised erstwhile Tamil Nadu Slum Clearance Board (renamed as Tamil Nadu Urban Habitat Development Board) as per the report of Chairman, Slum Clearance Board, dated 12.03.1982 and 24.09.1982 to take action towards collecting installments, whereupon transfer of ownership of lands in favour of the occupants, to enter into lease cum sale agreement, the Defence Ministry subject to certain terms and conditions resolved in Resolution No.267/81 dated 13.10.1981 by Slum Clearance Board. The terms were part of the



Government order in G.O.Ms.No.991, Housing and Urban Development Department, dated 02.11.1982.

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5. G.K.M. Colony, Chennai – 600 082, was taken up for development by Slum Clearance Board under Madras Urban Development Project and as per G.O.Ms.No.991, Housing and Urban Development Department, dated 02.11.1982. Board became the authority to transfer ownership rights in the land to and in favour of the occupant under “as is where as” basis. The maintenance and development of the area also vested with Slum Clearance Board and the same was carried out with World Bank fund assistance.

6. G.K.M. Colony has been notified as “slum” along with other slum areas by Government of Tamil Nadu in G.O.Ms.No.225, Labour and Housing Department, dated 26.02.1972 under Slum Clearance Board Act.

7. As per the directions of Government of India, Slum Clearance Board has allotted subject lands to 1762 occupiers as beneficiaries as per the eligible beneficiaries list approved by District Collector. There cannot be any substitution of any person other than the members in eligibility list. Slum Clearance Board is only in charge of the collection of installments and remitting the same to Government of India (Ministry of Defence) from 1762 members. Thereupon, by proceedings dated 01.04.2010 by Defence Estate Office, Madras, a certificate was issued to Slum Clearance Board to the effect



for handling/taking over of 139.07 acres of land at Ayanavaram rifle range area. Thereafter, process of execution of sale deed is being caused by Slum Clearance Board.

8. It is not in dispute that Slum Clearance Board had undertaken development of entire subject area and petitioners are also allottees, since their names were found in eligibility list finalised by District Collector.

9. It is not in dispute between the parties that as per sale deed executed by Slum Clearance Board in favour of petitioners, lands allotted are very much with the possession of petitioners, and the width of the road as per the sale deed and approved layout plan is 5.6 feet. Approved layout plan placed before this Court would also indicate that a small lane for 6 housing plots are provided and those allottees of the 6 plots were granted the road width of 5.6 ft and as per the layout there is no other road is available to these 8 allottees in respect of their plots. Behind the plot of the petitioners, pond is situated.

10. The contention of the petitioners are that land originally owned by Ex-servicemen association, and association promised petitioners that they can utilise 20 feet road adjacent to their plots abutting the pond. All along they are using the 20 feet road, and said road was attempted to be taken away. Thus, petitioners started litigating the issue.

11. The contention of the respondents are that, originally it was a low



lying area and Slum Clearance Board handed over the said plot to Chennai Corporation subsequently, for the purpose of construction of pond (water body) and to development eco-park with children play area. Since petitioners objected for developing pond and eco-park in the said low lying area, and the petitioners have forcibly created a mud road for their usage, authorities have initiated action for removal of encroachments. Petitioners filed WP.No.11019 and 34942 of 2024 challenging the order of Government, dated 08.03.2024 and to forbear the respondents from in any manner interfere with the usage of 20 feet width road as described in the writ petition. The Division Bench of this Court passed orders on 19.11.2024 and issued directions in paragraph No.19, which reads as under,

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

19.1 Impugned order dated 08.03.2024 bearing reference Letter No.6659784/Na.Va.Me 2(1)/2024-1 is set aside;

19.2 As the impugned order is set aside, the question of declaration sought by the writ petitioners will not arise;

19.3 R5 shall now embark upon an exercise under the Tanks Act by way of survey under Section 6, commence removal proceedings (if it becomes necessary), subject of course to the outcome of the survey;

19.4 If proceedings are initiated, the procedure adumbrated in clauses (i) to (iii) of sub paragraph (f)

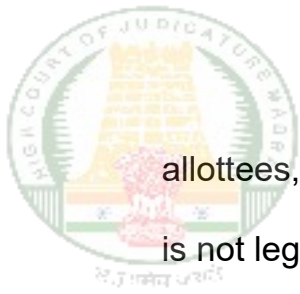


of paragraph 15 of T.K.Shanmugam (FB) shall be followed in letter and spirit;

19.5 Subject to orders (post T.K.Shanmugam (FB) legal drill), the consequences {if that be so} will follow. If that not be so, the matter will see the end of the road and probably the road.

19.6 Status quo as of today to be maintained until the aforesaid survey and legal drill if any are completed. This survey and legal drill shall be completed as expeditiously as the business of respondents would permit but in any event within twelve weeks from today i.e., by 25.02.2025.”

12. Learned Additional Advocate General appearing on behalf of the Chennai Corporation and learned Senior Counsel appearing on behalf of the Slum Clearance Board would submit that subsequent to the order passed by Division Bench of this Court, encroachments were cleared and pond was constructed. Surrounding the pond, walk path is laid for the benefit of people residing in that locality. Beyond that a small children play area is developed for the benefit of children. Now the eco-park and pond are in public usage. However, the petitioners are claiming 20 feet road only on the ground that Ex-servicemen association has promised that 8 allottees of housing plots may use 20 feet road abutting the pond, which is not conferred by Slum Clearance Board, at the time of execution of sale deed. Even as per the approved layout, there is no such road. In the absence of any street/road in the approved layout and in the sale deed executed by Slum Clearance Board in favour of the



allottees, petitioners cannot claim any 20 feet road as a matter of right, which is not legally sustainable.

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13. This Court is of the considered view that the arguments of Mr.T.S.Rajmohan, learned counsel appearing on behalf of the petitioners that the petitioners are left with a small lane measuring 5.6 feet, which may not be sufficient for the 8 allottees and their families in occupation of their respective houses. However, in the matter title/ownership, Courts cannot decide based on misplaced sympathy, but has to act in consonance with the documents. In the present case, land was transferred by Slum Clearance Board in favour of the allottees and sale deeds executed.

14. Even the petitioners have no quarrel that, as per the sale deed executed in their favour, no 20 feet street has been shown. As per the sale deed and the approved layout, the lane measuring 5.6 feet alone is shown for the usage of the 8 allottees/writ petitioners. This factum being admitted, High Court, in exercise of judicial review cannot confer any additional right or transfer of title for forming a 20 feet road. Slum Clearance Board disagreed with the request of the writ petitioners and already developed public project including pond, walk path and children play area etc., which is in public usage. In these circumstances, the High Court cannot confer any right to these petitioners either for constituting a 20 feet road or granting permission to the 8 allottees to create any such 20 feet road, which is not available either in the



sale deeds or in the approved layout.

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15. It is not as if the petitioners have no ingress or egress to reach the main road. The only grievance is that ingress and egress available is a small lane, which would be insufficient for them. Now they have to use only the small lane measuring 5.6 feet as per the sale deed and approved layout. The petitioners accepted the allotment and sale deed executed. Having accepted the width of the lane for their usage, they cannot turn around and encroach upon the common purpose area for their private usage. As far as Chennai Corporation and Slum Clearance Board are concerned, they have already developed a public project including construction of pond, walk path, children play area etc., for the benefit of the public at large. That apart, the declaratory relief sought for in the present writ petition, would fall beyond the realm of the powers of the judicial review under Article 226 of the Constitution of India and such a declaratory relief conferring ownership of land cannot be granted in a writ proceedings.

16. For all the above reasons, the present writ petition is devoid of merits, and stands dismissed. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

(S.M.SUBRAMANIAM J.)(C.KUMARAPPAN J.)

05-12-2025

gd
Index:Yes/No



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

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To

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(housing And Urban Development)
Department Secretariat, Fort St
George Chennai 600 009

2.The Commissioner
Chennai Corporation Ripon Buildings
Chennai 600 003

3.The Zonal Officer
Chennai Corporation Zone Vi, Division
65 No 5, Andersen Street Ayanavaram
Chennai 600 023

4.The Chairman Cum Managing
Director
Tamil Nadu Slum Clearance Board No
5 Kamarajar Salai Chennai 600005



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