



WEB COPY

W.P.No.3579 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2025

CORAM:

THE HON'BLE MR. JUSTICE M. SUNDAR
AND
THE HON'BLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

W.P. No.3579 of 2025

S. Thulasi

Petitioner

vs.

1. The Commissioner
Greater Chennai Corporation
Ripon Buildings
Chennai
2. The Assistant Executive Engineer
Division No.45, Zone 15
Corporation of Chennai
Sholinganallur
Chennai
3. Dr.A.K.D. Kumar

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 and 2 to remove the encroachment made by the third respondent by constructing a wall in the 40 ft. public road, Akkarai-VGP Golden Beach South – Part 7 (DTCP Approval No.129 of 1975), III Drive, Sea Cliff Conclave, Sholinganallur Village and Taluk, Kancheepuram District (now Chengalpattu District) by considering the petitioner's representation dated 26.09.2024.

For petitioner
For RR 1 & 2

Mr. M. Palanivel
Mr. G.T. Subramanian
Standing Counsel

**ORDER**

(made by M. SUNDAR, J.)

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Captioned 'writ petition' (hereinafter 'WP' for the sake of brevity) has been filed with a mandamus prayer *i.e.*, a direction to RR 1 and 2 to remove the alleged encroachment made by R3 (private respondent - Dr.A.K.D. Kumar) by constructing a wall, in, what according to writ petitioner, has been shown as 'public road' in a layout. There is a layout in the name and style of 'VGP Golden Beach (South) Part VII, Proposed House Sites in R.S.No.1/1C of Sholinganallur Village No.189, Saidapet Taluk-Chingleput District' (hereinafter 'said layout' for the sake of convenience and clarity).

2. Mr. M. Palanivel, learned counsel for writ petitioner, submits that said layout has been approved, writ petitioner and R3 (private respondent - Dr.A.K.D. Kumar) are owners of different pieces (adjacent pieces) of lands in said layout.

3. Learned counsel for writ petitioner submits that there is encroachment in public road by R3, repeated requests to official respondents have not yielded results and that has necessitated the captioned WP with a mandamus prayer.



4. Issue notice to official respondents (RR 1 & 2).

5. Mr. G.T. Subramanian, learned Standing Counsel, accepts notice for RR 1 and 2 and submits, on instructions, that a suit in O.S.No.169 of 2016 (hereinafter 'said suit' for the sake of convenience and clarity) on the file of Principal District Court, Kancheepuram at Chengelpet (hereinafter 'Trial Court' for the sake of convenience and clarity) is pending. It is submitted that said suit has been filed by R3 as lone plaintiff arraying official respondents and two other authorities as D1 to D4 and spouse of writ petitioner one M.M. Shanmugam as D5. This Court is informed that D5 is no more, date of his demise is 22.04.2024, an application has been filed to bring on record the legal heirs of deceased D5. It is submitted that this application is pending.

6. Before proceeding further, we make it clear that all the rights and contentions of R3 for resisting said suit are preserved. Therefore, there is no impediment in taking up captioned WP in the Admission Board with the consent of learned Standing Counsel for RR 1 and 2 (Chennai Corporation) and learned counsel for writ petitioner.

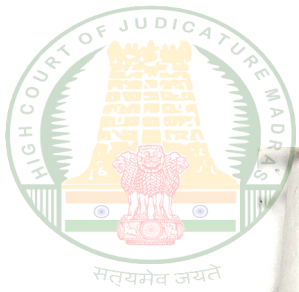
7. We find that said suit has been filed by R3 before us with a prayer for declaration of title and permanent injunction. We also find that said suit schedule property has been described as Survey



No.1/137B (patta number 3781) in Sholinganallur – II Village, Firk

Sholinganallur Taluk, Kancheepuram District (formerly Tambaram and Saidapet Taluk, Chengai MGR District) measuring 7,366 sq. ft. or

thereabouts together with Watchman shed, electrical meter room, cables, water and drainage pipelines existing thereon. In said suit, R3 (plaintiff therein) took out an application being I.A. No.1057 of 2016 with a prayer for injunction *qua* suit property, injunction was granted by Trial Court on 10.04.2017, same was carried to this Court by way of C.M.A.No.2688 of 2018, a Hon'ble Single Bench of this Court, *vide* order dated 03.03.2021 in the CMA, set aside the injunction (allowed CMA), R3 carried the matter to Hon'ble Supreme Court in SLP (Civil) No.4544 of 2021 and Hon'ble Supreme Court, *vide* order dated 30.01.2024, did not interfere with the CMA order made by the High Court but made it clear that Trial Court should dispose of said suit within a time frame of six months. Hon'ble Supreme Court also directed both parties to extend co-operation in this regard besides making it clear that it will be open to the Trial Court to submit a report in the Hon'ble Supreme Court if any of the parties is found to be delaying the progress of said suit. This Court, for the sake of convenience and clarity, deems it appropriate to scan and reproduce the Hon'ble Supreme Court order, we do so and a scanned reproduction of Hon'ble Supreme Court order is as follows:



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ITEM NO.37

COURT NO.8

SECTION XII

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 4544/2021

(Arising out of impugned final judgment and order dated 03-03-2021 in CMA No. 2688/2018 passed by the High Court Of Judicature At Madras)

DR. A.K.D. KUMAR

Petitioner(s)

VERSUS

251041

M.M. SHANMUGAM & ORS.

Respondent(s)

(IA No. 45097/2021 - APPLICATION FOR PERMISSION, IA No. 40363/2021 - APPLICATION FOR PERMISSION, IA No. 39546/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 50020/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 43231/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES AND IA No. 40370/2021 - PERMISSION TO RAISE ADDITIONAL QUESTION OF LAW)

Date : 30-01-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAM NATH

HON'BLE MR. JUSTICE K.V. VISWANATHAN

Certified to be true Copy

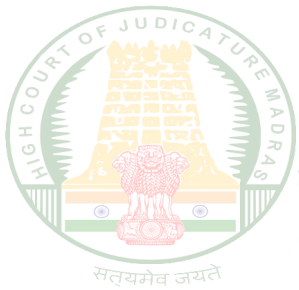
Assistant Registrar (Jrnl.)

Supreme Court of India

For Petitioner(s) Mr. Dama Seshadri Naidu, Sr. Adv.
Mr. G. Balaji, AORFor Respondent(s) Mr. Karpagavinayagam, Sr. Adv.
Mr. K. K. Mani, AOR
Ms. T. Archana, Adv.
Mr. Abdulla Naseeh V.t., Adv.
Mr. Arivazhagan A.c., Adv.
Mr. Rajeev Gupta, Adv.Mr. D. Kumanan, AOR
Mr. Sheikh F Kalia, Adv.
Mrs. Deepa. S, Adv.
Mr. Veshal Tyagi, Adv.

Signature valid

Digitally signed by
Neelesh Kumar
Date: 2024.01.31
17:15:00
Reason:UPON hearing the counsel the Court made the following
O R D E RWe are not inclined to interfere with the
impugned judgment and order of the High Court. The



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Special Leave Petition is, accordingly, dismissed.

However, considering the facts and circumstances of the case, we, direct the Trial Court to dispose of the pending suit within a period of six months.

It goes without saying that both parties shall extend all cooperation in the disposal of the suit. However, if any of the parties is found to be delaying the progress of the suit, it would be open for the Trial Court to submit a report to this Court so that appropriate orders may be passed.

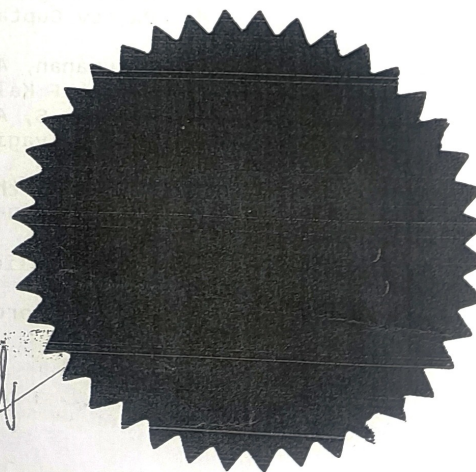
We, further, make it clear that the Trial Court shall decide the suit on its own merits on the basis of the evidence led before it by the parties, uninfluenced by any observations made by the High Court in the impugned order.

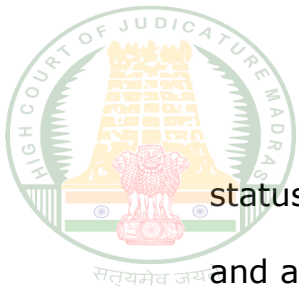
Pending application(s) shall stand disposed of.

(NEETU KHAJURIA)
ASTT. REGISTRAR-cum-PS

(RANJANA SHAILLEY)
COURT MASTER

A1-No 2652
Urgent Fee: Rs 5/-
Certification Fee Rs 10/-
No. of Folios 2 Rs 2
Total Cost Rs 17
(a) application filed on :- 12/11/24
(b) the date given to receive copy :-
(c) date on which copy is made ready :-
(d) the date on which the copy is received by the applicant or sent to the applicant :-
Branch Office
Subordinate Court of India





8. We went into e-Court's website to ascertain the current status of said suit in the Trial Court. We find that the suit is pending and a scanned reproduction of the e-Court website showing the current status of said suit is as follows:

Principal District Court, Chengalpattu

Case Details

Case Type:	OS - Original Suit
Filing Number:	300316/2016
Filing Date:	22-10-2016
Registration Number:	100169/2016
Registration Date:	22-10-2016
CNR Number:	TNCG010017472016

Case Status

First Hearing Date:	18-November-2016
Next Hearing Date:	14-February-2025
Case Status:	Pending
Stage of Case:	Stay
Court Number and Judge:	1-Principal District Judge

Case History

Registration Number:	100169/2016
Judge:	Principal District Judge
Business On Date:	18-11-2016
Hearing Date:	19-12-2016
Purpose of hearing:	Written Statement
Registration Number:	100169/2016
Judge:	Principal District Judge
Business On Date:	19-12-2016
Hearing Date:	05-01-2017
Purpose of hearing:	Written Statement
Registration Number:	100169/2016
Judge:	Principal District Judge
Business On Date:	05-01-2017
Hearing Date:	11-01-2017
Purpose of hearing:	Written Statement
Registration Number:	100169/2016
Judge:	Principal District Judge
Business On Date:	11-01-2017
Hearing Date:	23-01-2017
Purpose of hearing:	Written Statement



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Petitioner and Advocate	
1) Dr. A.K.D.Kumar rep by his Power Agent AKD Venkataramana Raja Advocate - N.Ravi	
Respondent and Advocate	
1) The Commissioner	
2) The Assistant Executive Engineer	
3) State of Tamil Nadu Rep. by its District Collector	
4) The Tahsildar	
5) M.M.Shanmugam	

Acts	
Under Act(s):	CodeofCivilProcedure
Under Section(s):	25(b), 27(c)

IA Status	
IA Number:	IA/1/2024
Classification :	
Party Name:	Dr. A.K.D.Kumar rep by his Power Agent AKD Venkataramana Raja The Commissioner
Date of Filing:	24-06-2024
Next Date:	14-02-2025
IA Status:	Pending

9. Learned counsel for writ petitioner submits that no interim order is operating. We record this submission. As Hon'ble Supreme Court has made it clear that the Trial Court shall file a report in Hon'ble Supreme Court if the parties are found to be delaying the trial (after fixing a time frame of six months for disposal of said suit), it is only appropriate that the writ petitioner approaches Hon'ble Supreme Court if there is any grievance in this regard. We also make it clear that it is open to the learned Judge presiding the Trial Court to send a report to



Hon'ble Supreme Court if there is any delay caused by the parties.

be noted, a copy of this order, besides being hosted in the official website of Madras High Court (as is usually being done) is also being marked to the learned Judge presiding the Trial Court.

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10. We make it clear that we have not expressed any view or opinion on the merits of the matter and said suit will proceed on its own merits and in accordance with law untrammelled by any observation in this order.

11. Though obvious, as already alluded to *supra*, we also make it clear that all the rights and contentions of R3 (private respondent) are preserved when said suit proceeds [to be noted, R3 (private respondent) is lone plaintiff in said suit] and/or when Hon'ble Supreme Court is approached or a report is sent by learned Judge presiding the Trial Court.

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

(M.S., J.) (K.G.T., J.)
04.02.2025

Index : Yes/No
NC : Yes/No
cad

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M. SUNDAR, J.

and

K. GOVINDARAJAN THILAKAVADI, J.

cad

To

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