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W.A.(MD)NO.7 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.A.(MD)No.7 of 2022 AND

C.M.P.(MD)No.191 of 2022

A.Sesammal

... Petitioner / Appellant

Vs.

1. The District Collector,
Collectorate Office,
Tenkasi Disgtrict.

2. The Revenue Divisional Officer,
Sankarankovil,
Tenkasi District.

3. The Municipal Commissioner,
Sankarankovil Municipality,
Tenkasi District.

... Respondents / Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed in W.P.(MD)No.17774 of 2021 dated 08.12.2021 and allow this writ appeal.

For Appellant : Mr.D.Selvanayagam
For R-1 & R-2 : Mr.S.R.A.Ramachandran,
Additional Government Pleader.
For R-3 : Mr.M.Rajarajan
For Intervener : Mr.Prabha
Mr.A.K.Baskara Pandian,
Advocate Commissioner

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J U D G M E N T**(Order of the Court was delivered by G.R.SWAMINATHAN, J.)**

Heard the learned counsel appearing for the appellant and the learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent and the learned counsel for the intervener (Mariya Sudha).

2. The appellant herein filed W.P.(MD)No.17774 of 2021 to direct the Sankarankovil Municipality to remove the construction put up by them. According to the appellant, the Municipality by putting up the construction is obstructing her rights of ingress and egress. The learned counsel appearing for the appellant as well as the learned counsel for the intervener would submit that fortunately the construction has been put up in such a manner so as to leave 3 feet gap and that the appellant and the intervener may be permitted to use the same.

3. In this appeal, the Advocate Commissioner was appointed at



the instance of the appellant. The Advocate Commissioner had given his report dated 19.12.2022. Paragraph Nos.4 to 9 of the said report are as follows:-

“4. The appellant's property is located in S.No. 219/2, Ward No.8, Block 24, Sankarankovil, Sankarankovil Taluk. The appellant's property is having access through the 8 feet vacant land(Government poramboke) in S.No.219/1, which is situated on the west of the appellant's property.

5. On the northern side of the appellant's property an old building and three building under construction are there. The said buildings are having access through the 11 feet street on the east of the building.

6. Likewise on the southern side of the appellant's property private shopping complex is there. One shop is having access through the 11 feet street on the east of the building and remaining shops have access through the 28 feet street on the south of the shops.

7. The total extent of the appellant's property in S.No.219/2 is 207 sq.meter(5.1 cents). The appellant constructed house in the portion of the property. The remaining portions are vacant wherein debris due to the removal of encroachment are found. The house



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has been locked and the entrance of the house faces the north direction.

8. The shops constructed by the Sankarankovil Municipality, was situated on the west of the appellant's property.

9. The four boundaries of the appellant's property are as follows:-

- | | |
|-------|--|
| East | : 11 feet street |
| West | : 8 feet vacant land
(Government poramboke) |
| North | : Private building |
| South | : Private shopping complex.” |

4. We also had a look at the diagram enclosed with the report.

We are satisfied that the appellant as well as the intervener can very well access their houses from the street on the eastern side. That is why, the learned single Judge in paragraph Nos.21 and 22 had observed as follows:-

“ 21.The access to the house of the petitioner is on the eastern side from Vadakatchiamman Temple 2nd Street. The petitioner should look forward. But, on the other hand it appears she had inculcated a habit to look backwards at the land which lies at the backside of her house. She claims a right over it. That cannot be permitted and encouraged. The petitioner



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can claim rights only on her house within the four boundaries. She must be satisfied with the entrance she has at Vadakatchiamman Temple 2nd Street.

22. It is not the case of the petitioner that the entrance from Vadakatchiamman Temple 2nd Street is obstructed by the respondents. There is no complaint in that regard. The petitioner rather, has concentrated on what is at the rear side of her house which is a vacant land, naturally, an attractive prospect for personal economical exploitation.”

5. It is also stated by the appellant's counsel that the appellant had obtained decree and to execute the same, she has filed E.P.No.51 of 2025. If that be so, the appellant has to work out her rights in the manner known to law. Filing of the writ petition before the learned single Judge was misconceived. The order of the learned single Judge is not interfered with. This writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (M.JOTHIRAMAN, J.)
24th February 2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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W.A.(MD)NO.7 OF 2022

G.R.SWAMINATHAN,J.

AND

M.JOTHIRAMAN, J.

PMU

To:

1. The District Collector,
Collectorate Office,
Tenkasi Disgtrict.
2. The Revenue Divisional Officer,
Sankarankovil,
Tenkasi District.

W.A.(MD)No.7 of 2022

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