

(2004) 11 MAD CK 0052

In the Madras High Court

Case No : Writ Petition No. 35869 of 2003 and W.P.M.P. No. 43596 of 2003

Ashok Kumar Jain, Alagappa Nagar Residents Welfare
Association

APPELLANT

Vs

The Commissioner, Corporation of Chennai and Others

RESPONDENT

Date of Decision : 03-11-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 11 MAD CK 0052

Hon'ble Judges : R. Banumathi, J;N.V. Balasubramanian, J

Bench : Division Bench

Advocate : K.R. Vijaya Kumar, for the Appellant; R. Kannan, for R-1 to 4, S. Srinivasan, Government Advocate for R-5 and Rita Chandrasekaran, for R-6, for the Respondent

Final Decision : Dismissed

Judgement

R. Banumathi, J.—This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus calling for the records of the Second

Respondent vide k/m/5-e/f/vz;/m6-6192-2003; and m3-2547-2003, dated 09.10.2003 and to quash the same and consequently to direct the

Respondents to form a pucca road as per the original Revenue Records and Corporation Records connecting New Avadi Road and Taylor's

Road (via) Valiammal Street.

2. The averments in the Petition, which led to the filing of the present Writ Petition could briefly be stated thus:-

The Petitioner is the Secretary of Alagappa Nagar Residents Welfare Association. The Petitioner and public are using Umayal Street and

Valliammal Street. The Respondents have been treating the Eastern End of Valliammal Street, after Umayal Street, behind P & T Quarters of

Alagappa Nagar, Kilpauk as a waste dump yard, contra to what is notified in the Corporation and Revenue Records. After the Postal and

Telecom Quarters have come up, certain persons seemed to have conspired to encroach the Eastern End and managed to close the road by

extending the compound wall across the road. Now, the Corporation has allowed the site to be used as a dump yard for garbage, debris and

waste. The Association has sent several representations to the various level officers to the Corporation and Pollution and Environmental Authorities

and also to the Government. On the direction of the Corporation only, the debris and rubbish had been removed, but no step has been taken to

form the road as per the Original Revenue Records and Corporation Records. The Petitioner has requested the Corporation Authorities to make

that portion of the road, till the Compound Wall of P & T Quarters as a temporary measure and to extend the road as per the Original Revenue

Records and Corporation Records after removing the encroachments made by the P & T Quarters. But, the request of the Petitioner has been

declined as not possible by the impugned letter and hence, the Petitioner has filed this Writ Petition for issuance of a Writ of Certiorarified

Mandamus for a direction to form the road as aforesaid.

3. Learned counsel for the Petitioner has contended that it is the prime duty of the Respondents to ensure that the road land is made to a pucca

road, which would link the New Avadi Road and Taylor's Road (Via) Valliammal Street and Umayal Street in between P & T Quarters.

Opposing the act of the Respondents, it is contended that the act of the Respondents in attempting to convert the road land for some other

purpose, which is contrary to the Revenue and Corporation Records is against the Public Interest which would amount to gross abuse of process.

4. We have carefully considered the submissions of the learned counsel appearing for the Petitioner and perused the entire materials available on record.

5. From the Plan produced, it is seen that Valliammal Street is on the Northern Side. Alagappa Nagar residential houses are on the Southern side.

The site, which the Petitioner seeks for formation of the road is on the Eastern Side edge. We may straight away point out that absolutely there is

no material showing that the Eastern Side space is the site left for the road as

per the Revenue and Corporation Records. The Petitioner has not produced any material evidencing that the Petitioner has right to claim the formation of the road in such vacant space.

6. By the impugned letter dated 09.10.2003, the Second Respondent has informed the Petitioner that the formation of new road to Taylor's Road

from the junction of Umayal Street and Valliammal Street in Alagappa Nagar is not possible. In the same letter, the Second Respondent has stated

that the road workers of Division 70 have removed the thorny shrubs and bushes and the dumps of sand levelled the vacant road land had also

been removed. Though the Corporation has clearly declined the request of the Petitioner's right for formation of new road by the impugned letter,

the Petitioner has not produced any material evidencing the legitimate right to claim for the formation of the road and for issuance of a Writ of

Certiorarified Mandamus.

7. The contention of the Petitioner that the Eastern Side site is ear-marked for road is very much in dispute and the contentious point is to be

resolved only before the appropriate forum. Even if there is any such space, the Second Respondent has declined the request of the Petitioner to

form the road as not possible and not viable. Therefore, it is for the Petitioner to approach the appropriate forum, substantiating his claim that the

Eastern Side space is the space ear-marked for formation of the road and that the Second Respondent is under obligation to form the pucca road.

It is a matter of facts and evidence. The respective rights of the Petitioner and those contentious points and facts are in dispute. Writ is not the

proper remedy.

8. We have carefully perused the various representations sent by the Petitioner - Association dated 07.03.2003 and 24.04.2003 to the

Respondents. In all those representations, the main grievance of the Petitioner is only to clean and remove all the rubbish and garbage, which are

dumped in the road land of Valliammal Street after Umayal Street and take effective steps to prevent anybody from throwing or dumping any

waste or whatsoever in the Corporation road land. Even in the Letter dated 11.08.2003, the Association has only called upon the Second

Respondent to remove the thorny shrubs and bushes and only made a persuasive representation for the formation of the Road on the Eastern End

of Valliammal Street after Umayal Street behind P & T Quarters in Alagappa Nagar, Kilpauk, Chennai.

9. The Second Respondent has properly responded stating that Thorny bushes had been cut and removed and the waste sand has been removed

levelled at the vacant road land. However, the Second Respondent has declined the request of the Petitioner for formation of the New Road to

Taylor's Road from the junction of Umayal Street and Valliammal Street in Alagappa Nagar.

10. In this writ petition, the Petitioner has expressed grievances against the Officials that the officials are indirectly helping some persons who have

eye on the road land to grab the same. Such allegations are baseless, unsupported by any material.

11. As noted earlier, if there is any space on the Eastern Side, it is for the Corporation Authorities to consider the availability of space and the

same cannot be gone into in this petition. No valid grounds are made out for issuance of a Writ of Certiorarified Mandamus as prayed for. The

Petition is bereft of merits and the same is liable to be dismissed.

12. In the result, this Writ Petition is dismissed. No costs.

Consequently, the connected W.P.M.P. No. 43596 of 2003 is dismissed.