

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE
AT CHENGALPATTU**

Present: Tmt.K.Kayathri, M.A.B.L.
Additional District Judge,
Chengalpattu.

Wednesday the 16th day of April 2025
I.A.No.4/2024 in O.S.No.678/2024
CNR NO.TNCG01-005283-2024

G. Malliga

...Petitioner/Plaintiff

..Vs..

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai-600 003.
2. The Regional Deputy Commissioner (South),
Greater Chennai Corporation,
Adyar, Chennai - 600 020
3. The Zonal Officer,
Corporation of Chennai, Zone XIV,
Puzhuthivakkam, Chennai 600 091
4. The Assistant Engineer,
Corporation of Chennai, Zone XIV,
Puzhuthivakkam, Chennai 600 091
5. The Executive Engineer,
Greater Chennai Corporation,
Zone XIV, Division 198,
Puzhuthivakkam Main Road, Chennai 600 091
6. The Tahsildar,
Sozhinganallur Taluk,
Sozhinganallur, Chennai.
7. The Assistant Commissioner,
Corporation of Chennai, Zone XIV,

Puzhuthivakkam, Chennai 600 091

8. The Chennai Metropolitan Development Authority,

....Rep. by its Managing Director,

Egmore, Chennai - 600 008.

...Respondents/Defendants

The Petition coming before this court for final hearing on 9.4.2025 in the presence of M/s.Chennai Law Associates, Counsels for the Petitioner and Thiru.C.Ganesh Pandian, Counsels for the respondents 1 to 5 and 7 and Government Pleader, counsel for the 6th Respondent and upon hearing the arguments of both sides and perusing the entire case records and having stood over for consideration till this day, this Court delivered the following :-

ORDER

The Petition filed under order 26 Rule 9 of CPC to appoint an Advocate Commissioner to inspect the suit property and to note down the physical features of the same and demarcate the yellow line in consonance with the order dated 22.02.2019 passed by the 6th defendant, Tahsildar in order to identity the actual Patta property of the plaintiff and to take photographs with the help of a registered and authorized Government Surveyor and submit a report pending disposal of the above suit.

2.Petition averments in brief is as follows:-

The petitioner is the plaintiff in the above suit. The petitioner is aged 77 years and her husband died on 04.04.2012 due to his serious ailment. The petitioner's husband has purchased the suit property to an

extent of 21 cents at Rajesh Nagar, 6th Main Road, Pallikaranai Village, Sholinganallur Circle in S.No.74/1 bearing Patta No. 523 by way of a registered sale deed dated 14.07.1969 from one Mr.Govindanayudu under Document No. 1736/1969. After the death of petitioner's husband, her two sons namely G.Ananthan and G. Anbu had executed a Release deed dated 03.04.2014 releasing their 2/3 share of the property in petitioner's favour under Document No. 3616/2014. Thus, pursuant to the release deed, the petitioner has become the absolute owner of the suit property and has obtained patta in her favour vide patta No. 31061. Thus, the petitioner have valid title, right, interest and possession towards the suit property.

Since the Corporation persons attempted to encroach upon petitioner's property during 18.07.2017, by erecting a Lamp Post and started laying a load, the petitioner objected the same and filed Writ Petition in W.P.No. 27349/2017 before the Hon'ble High Court of Madras, in which order was passed on 26.02.2018 thereby directed the Tahsildar to inspect the suit property with valid title deed in petitioner's favour. In pursuant to the said order, the 6th respondent with the assistance of surveyors measured the suit property on 27.09.2018 and submitted a report along with a sketch to the 3rd respondent and thereafter to ensure that no dispute arises in future, the 6th respondent once again inspected the suit property and demarcated petitioner's property with yellow painted lines

and took photographs of the same and annexed the same with the report dated 22.02.2019 which was once again submitted to the 3rd respondent along with 6 photographs.

Subsequently the 5th respondent once again attempted to trespass into the suit property and unlawfully demolished the compound wall on 3 sides of the suit Property abutting the internal road and issued a unlawful report dated 30.04.2024 mentioning several survey numbers of properties belonged to the petitioner and other parties. The petitioner's property is in survey no. 74/1 which is a patta property with perfect title.

In a subsequent writ petition in WP No. 7791/2019 before the Hon'ble High Court of Madras, the 7th respondent has stated in his counter that the petitioner herein(6th respondent in WP No. 7791/2019) has not encroached the road portions. Hence, the respondents 1 to 7 cannot rely upon the order dated 15.03.2024 in WP No. 7791/2019 passed by the Hon'ble High Court of Madras, to invade, demolish and attempt encroachment of petitioner's property in any manner whatsoever.

After the said order dated 15.03.2024, the respondents who are the corporation officials, on 04.05.2024 at about 11.30 am started to remove the encroachments and started to demolish the compound wall constructed by the petitioner in her patta land to an extent of around 1500 sq.ft., out of 21 cents ie., around 9200 sq.ft., without properly ascertaining the actual

lands which were encroached upon.

Further, a notice dated 30.04.2024 was issued to the petitioner by the 4th respondent, asking her to cooperate to them for removal of the encroachments. The 4th respondent without conducting/following any of the legal procedures had proceeded to do the unlawful act had passed an order in a pre-determined manner and hence the said impugned order dated 30.04.2024 is not legally sustainable without properly identifying the actual encroachments in the locality. The 4th respondent ought to have issued a notice of inspection to the petitioner or have inspected the property, but arbitrarily declared the petitioner as an encroacher. Further, even knowing that the petitioner is not an encroacher, the 7th respondent has proceeded to demolish the compound wall.

The 4th respondent failed to take note of the vital fact that the 6th respondent had issued a letter dated 22.02.2019 vide his proceedings in Na.ka.No. 3804/2018/A1 addressed to the 3rd respondent with regard to the demarcation of petitioner's land as per the earlier order passed in W.P.No 27349/2017. Thus, when the 6th respondent already confirmed the extent of petitioner's patta land, it is highly arbitrary and unauthorized that her patta land to an extent of approximately 1500 sq.ft., has been attempted to be encroached by the Corporation officials. The respondents should be made to compensate for such unlawful acts and hence the petitioner restricts her

compensation claim from the respondents to a sum of Rs. 10,00,000/-.

The petitioner has filed another writ petition in W.P.No. 24822/2024 seeking for a WRIT OF CERTIORARIFIED MANDAMUS or any other order or direction in the nature of writ calling for records pertaining to the proceedings in Z.O.14/C.No/A1/5835/2049 dated 30.04.2024 issued by the 5th respondent, quash the same and consequently direct the respondents to forbear them from in any manner interfering with the peaceful possession of petitioner's land in S.No.74/1, in Patta No. 31061 to an extent of approximately 1500 sq.ft. and consequently restore her land as per the proceedings of the 6th respondent dated 22.02.2019 in Na.Ka.No. 3804/2018/A1 addressed to the 3rd respondent. On 29.08.2024, the Hon'ble High Court of Madras dismissed the said writ petition by granting liberty to the petitioner to approach the civil court seeking remedy.

In such circumstances, the petitioner has filed the above suit for permanent injunction, for a mandatory injunction and for damages and filed petition seeking the relief of interim injunction. Since the respondent corporation has demolished the compound wall constructed by the plaintiff over the yellow line demarcated by the 6th defendant vide order dated 22.02.2019, it is just and necessary now to appoint an advocate commissioner to once again measure the suit property with the help of the surveyor and take photographs and submit a detailed report before this

court to assist the Court to arrive at a just decision. Hence the petition.

**3. Brief of counter averments(adopted written statement as counter):
(Adoption Memo filed by 3rd Respondent and adopted by Respondents
1, 2, 4,5 and 7)**

The respondent deny all the contentions made by the plaintiff. In the year 2011, the Chennai Corporation has been expanded to 426 km² from the earlier 176km² and 42 small local bodies, including 9 municipalities, 8 town panchayats and 25 Village Panchayats were merged with Greater Chennai Corporation. The Pallikaranai Town Panchayat was merged with the Corporation of Chennai vide G.O.Ms.No.97 MA&WS Department dated 19.07.2011. Thereafter, the administration of Pallikaranai Town Panchayat has been taken over by the Greater Chennai Corporation on 30.10.2011.

In the year 2015, on request from the general public in the Rajesh Nagar, the Greater Chennai Corporation had laid Black Top Road in the existing mud road laid by the Panchayat.

In the Writ Petition in W.P.No.27349 of 2017 filed by the petitioner herein before the Hon'ble High Court, wherein, the order has been passed on 26.02.2018 and observed in 4th para and 5th para stating that:

"...4. ...If the petitioner makes any application stating that the land(s) belonging to the petitioner, shall be surveyed, apart from surveying the land of the third respondent, and if there is any encroachment by the third

respondent, there is no hindrance on the part of the authorities to remove the encroachment if any, after causing notice, as no one is empowered to encroach upon the Government land and the survey, as prayed for by the petitioner, shall be conducted in accordance with law.

5. Without ascertaining the extent of land (s) in question, based on patta, the petitioner would not be entitled to the relief sought for in this Writ Petition. That apart, the petitioner has got a sale deed in respect of the property in question and the authorities, before surveying the property (i.e.,) in question of the petitioner and the third respondent, shall ascertain the extent of land(s) of the petitioner and the third respondent, from the Sub-Registrar Office and measure the land so that no hurdle is caused to anyone including the authorities...."

On receipt of the above order, a letter dated 16.05.2018 was addressed to the Tahsildar, Sholinganallur Taluk requesting to earmark the boundaries of land in Survey. No.74/1 situated at Pallikarani Village, sholinganallur Taluk, and to furnish a survey report.

Earlier one Mr.S.Ravikumar had filed a Writ Petition in W.P.No.4359 of 2019 praying to direct the respondents 1 and 2 to pass orders on the representation dated 10.01.2019 seeking removal of the road laid in the petitioner's patta land in survey No.84/6A/1B, Pallikaranai Division, Sholinganallur Taluk in which, the Hon'ble High Court has passed an order

on 15.02.2019 directing the 1st respondent to consider the representation of the petitioner dated 10.01.2019, on merits and in accordance with law, and to pass appropriate orders. Accordingly, the Regional Deputy Commissioner (South), Greater Chennai Corporation had passed Order on 29.07.2019.

Based on the above said Order of Regional Deputy Commissioner (South), the BT Road was removed up to the extent mentioned in his order in the Survey Nos.74/1 and 84/6A1B at Rajesh Nagar 5th and 6th Main Road, Pallikarani Village, sholinganallur Taluk, Kanchipuram District.

The residents of Rajesh Nagar has filed the above Writ Petition praying to issue a Writ or Order or Orders or Direction in the nature of a Writ of Mandamus or any other appropriate Writ, Order or Direction directing the respondents No.1 to 4 to consider and decide the representation of the petitioners dated 31.12.2018 on merits and in accordance with law and to take appropriate action against the respondents 5 and 6 and remove the encroachment to the public roads at 6th Main Road, Rajesh Nagar, Pallikaranai, Chennai - 600 100.

The Tahsildar, Sholinganallur Taluk had furnished an inspected report vide Na. Ka.No. 2074/2021/Aal, dated 12.07.2021.

In pursuant to the directions of the Court dated 20.07.2021, the respondent had sent a communication dated 20.7.2021 to the Tahsildar,

Sholinganallur Taluk requesting for Joint inspection at Survey Nos.74/1 and 84/6A/B at Rajesh Nagar 5th & 6th Main Road, Pallikarani Village Sholinganallur Taluk. Based on the same, Joint Inspection was conducted and the Tahsildar has furnished a detailed report vide Na. Ka. No.2074/2021/Aal, dated vide Na. 26.07.2021.

The layout of Rajesh Nagar is an unapproved layout and road portions were not handed over by the erstwhile Pallikarani Town Panchayat and to the Greater Chennai Corporation. All land owners in the said layout have given their portion of properties to form a road to a width of 20 feet (main road) and of 15 feet (cross streets).

The petitioner's son and Mr. Ravikumar made it clear that they are not willing to give up their land to form a road for public purpose and reiterated their own submissions and no compromise could be arrived in between the parties. No consensus could be arrived at despite their best efforts.

In order to comply with the orders of the Hon'ble High Court, Orders were obtained from Regional Deputy Commissioner (South) on 23.04.2024 for removal of the encroachments and demolish the compound wall in the side Survey No's. 84/3, 84/2A2, 74/1, and 84/6A1B following that an intimation letters were sent to the 5th respondent and the petitioner. The Greater Chennai Corporation, Zone 14 Officials with their own men and

material and along with police protection demolished the compound wall in the side Survey No's.84/3, 84/2A2, 74/1, and 84/6A1B for the public usage on 04.05.2024.

The said Mr. Ravikumar has filed the above Writ Petition vide W.P.No. 13998 of 2024, praying to issue a Writ or Order or Orders or Direction in the nature of a Writ of Mandamus for bearing the respondents 1 to 9 from in any manner evicting or interfering with the peaceful possession of the petitioner's land in S.No.84/6A1B, Pallikaranai Village, to an extent of 1500 sq.ft. and obtained interim orders on 22.5.2024.

The general public have been using the 20 and 15 feet road as Public Road for years. The Petitioner obtained patta suppressing the true nature of the portion of land being part of 20 and 15 feet Public Road of unapproved layout shall not hinder the public from accessing the Road. The Greater Chennai Corporation had removed the encroached wall portion on the 20 and 15 feet road in line with the directions of the Hon'ble High Court. The Hon'ble High Court in W.P. No. 7791 of 2019 had already observed the existence of the 20 and 15 feet road in Rajesh Nagar Unapproved layout and further directions were issued to remove the encroachments and maintain the road free from, all encumbrances. Now the wall encroaching upon the entrance of the road has been removed.

After the petitioner constructed the wall, the residents of Rajesh

Nagar were unable to access as the entrance to Rajesh Nagar, via the 20 feet and 15 feet roads, became a "bottleneck." The wall erected by the petitioner has obstructed access to essential services, such as ambulances (especially during COVID) and fire trucks, during emergencies, as well as other vital amenities (drinking water, drainage lorries, school van for children) for the residents. The petitioner does not live in Pallikarnai and is unaware of the daily challenges faced by the local residents. Without clear access to basic services like drinking water, drainage, and school vans, the residents were severely impacted by the road blockage. Under the above said circumstances, the petition is liable to be dismissed.

4. The 6th Respondent did not file counter and the 8th Respondent filed a memo as to given up the petition against the 8th Respondent.

5. The point for Consideration :

1. Whether the petition is to be allowed or not?

6. Points:

Heard both sides. The petition and other materials available on records were carefully perused.

7. It is evident from records that the suit is for permanent injunction, mandatory injunction and for compensation. According to petitioner, the petitioner's husband has purchased the suit property to an extent of 21 cents in S.No.74/1 by virtue of a registered sale deed dated 14.07.1969 from one Mr.Govindanayudu and after his demise, her two sons have executed a Release deed dated 03.04.2014 releasing their 2/3 share of the

property in petitioner's favour and thus the petitioner has become the absolute owner of the suit property and has obtained patta in her favour and has a valid title, right, interest and possession towards the suit property.

The main contention of the petitioner is that the 5th respondent once again attempted to trespass into the suit property and unlawfully demolished the compound wall on 3 sides of the suit Property abutting the internal road and issued a unlawful report dated 30.04.2024 mentioning several survey numbers of properties belonged to the petitioner and other parties. The petitioner's property is in survey no. 74/1 which is a patta property with perfect title.

It is the further contention of the petitioner that the respondents who are the corporation officials, on 04.05.2024 at about 11.30 am started to remove the encroachments and started to demolish the compound wall constructed by the petitioner in her patta land to an extent of around 1500 sq.ft., out of 21 cents ie., around 9200 sq.ft., without properly ascertaining the actual lands which were encroached upon.

The petitioner's further contention is that since the respondent corporation has demolished the compound wall constructed by the plaintiff over the yellow line demarcated by the 6th defendant vide order dated 22.02.2019, it is just and necessary now to appoint an advocate

commissioner to once again measure the suit property with the help of the surveyor and take photographs and submit a detailed report before this court to assist the Court to arrive at a just decision. Hence the petition prays to allow the petition.

8. On the other hand, the main contention raised by the defendants is that the wall erected by the petitioner has obstructed access to essential services, such as ambulances (especially during COVID) and fire trucks, during emergencies, as well as other vital amenities (drinking water, drainage lorries, school van for children) for the residents. The petitioner does not live in Pallikarnai and is unaware of the daily challenges faced by the local residents. Without clear access to basic services like drinking water, drainage, and school vans, the residents were severely impacted by the road blockage. Under the above said circumstances, the petition is liable to be dismissed.

9. Considering the rival submissions, this petition is filed to ascertain the physical features of the suit property. On perusal of petition and counter averments, it is evident that the petitioner claims that she is the absolute owner of the suit property and the respondents who are the corporation officials, have started to remove the encroachments and started to demolish the compound wall constructed by the petitioner in her patta land to an extent of around 1500 sq.ft., out of 21 cents ie., around 9200 sq.ft., without

properly ascertaining the actual lands which were encroached upon. Per contra, the main contention raised by the defendants is that the wall erected by the petitioner has obstructed access to essential services, such as ambulances, fire trucks, during emergencies, as well as other vital amenities (drinking water, drainage lorries, school van for children) for the residents. It is pertinent to note that the demolition of compound wall has been admitted by the respondents. If that be the case, the physical features of the suit property is vital and necessary to the present case to arrive a just conclusion of the case. Therefore, this court finds that, appointment of Advocate Commissioner is very vital to decide the merits of the case between the parties and by appointing an Advocate Commissioner, no prejudice will be caused to the respondents. In this situation, this court is inclined to allow the petition and Thiru.B.Seetha Raman, Advocate is appointed as advocate commissioner to measure the suit property with the help of Taluk Surveyor, Chengalpattu and to note down the physical features of the suit property.

In the result, this petition is allowed and Thiru.B.Seetha Raman, Advocate is appointed as advocate commissioner to measure the suit property and to note down the physical features of the same and demarcate the yellow line in consonance with the order dated 22.02.2019 passed by the 6th defendant, Tahsildar in order to identity the actual Patta property of the plaintiff and to take photographs with

the help of Taluk Surveyor, Chengalpattu. The advocate commissioner is directed to file his report by 16.6.2025. The advocate commissioner is directed to issue notice to both the parties and their respective counsels before inspection. The remuneration of the advocate commissioner is fixed at Rs.25,000/- and the same is to be paid by the petitioner directly to the advocate commissioner. Report by 16.6.2025.

Dictated to the Shorthand writer and directly typed by her in the computer and corrected and pronounced by me in open Court, this the 16th day of April.2025.

sd/-K.Kayathri
Additional District & Sessions Judge,
Chengalpattu.

List of witnesses and exhibits on both sides: Nil

sd/-K.Kayathri
Additional District & Sessions Judge,
Chengalpattu.

Draft/Fair Order
I. A.No.4/2024 in
O.S.No.678/2024
Dated :16.4.2025
ADJ/CPT

I.A.No. 4/2024 in O.S.No.678/2024

Dated :16.4.2025

Order Passed

In the result, this petition is allowed and Thiru.B.Seetha Raman, Advocate is appointed as advocate commissioner to measure the suit property and to note down the physical features of the same and demarcate the yellow line in consonance with the order dated 22.02.2019 passed by the 6th defendant, Tahsildar in order to identity the actual Patta property of the plaintiff and to take photographs with the help of Taluk Surveyor, Chengalpattu. The advocate commissioner is directed to file his report by 16.6.2025. The advocate commissioner is directed to issue notice to both the parties and their respective counsels before inspection. The remuneration of the advocate commissioner is fixed at Rs.25,000/- and the same is to be paid by the petitioner directly to the advocate commissioner. Report by 16.6.2025.

ADJ/CPT

