

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

W.P.No.17682 of 2015

Somu,
Vice President,
Manamai Panchayat and Post,
Kalpakkam via,
Thirukazhukundram Panchayat Union,
Kanchipuram District-603 102. ... Petitioner

-vs-

- 1.A.Sumthikumar
- 2.The Director of Town and Country Planning,
Anna Salai,
Chennai.
- 3.The Assistant Director,
Mamallapuram Local Planning Authority,
(Near Bus Depot)
Chengalpattu.
- 4.President,
Manamai Panchayat,
Thirukazhukundram Taluk,
Kanchipuram District.
- 5.Secretary,
Public Works Department,
Water Resources Organisation,
For St. George,
Chennai-9.
- 6.Chief Engineer,
Chennai Region,
Public Works Department,
Water Resources Organisation,
Chepauk,
Chennai-5.

7.District Collector,
Kanchipuram.

8.The Tahsildar,
Thirukazhukundram,
Kanchipuram District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus forbearing the respondents 2 to 4 from approving the layout house sites namely "VIP Empire Layout" developed in the catchment area comprised in Survey Numbers 304/4, 480/13, 415/1, 304/8, 414/1, 414/2A, 414/2B, 414/3, 414/B, 418 of the "Siteri" and "Periyaeri" two lakes of Manamai Village unless the 1st respondent complied with the legal requirements provided under the Tamil Nadu Town and Country Planning Act, 1971 for approval of the layout and further directing the respondents 5 to 7 to restore the original northern lake bed, to restore the feeding canals and the small water ways in the catchment area and to restore the Panchayat road and lake leading to East Coast Road originally found as per in the Village map.

For Petitioner : Mr.N.Subbarayalu

For Respondents: Mr.STS.Moorthy
Government Pleader
assisted by
Mr.V.R.Kamalanathan, Addl. G.P. &
Mr.V.Shanmugha Sundaram
Govt. Advocate for R2 to R8

No Appearance for R1

* * * * *

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner has filed the present Public Interest Litigation alleging that the first respondent/A.Sumthikumar seeks to develop housing sites with the layout consisting of 346 plots named as VIP Empire Estate. It is alleged that the first respondent has illegally removed the Manamai Village Panchayat road, which is leading to the lake used for public purposes and removed the lake bed on the northern side measuring 200 feet length East-West. In this context, it is stated that there are two lakes known as Periya Eri and Siteri situated in the area and the water to these lakes are collected from the feeding canals of small water ways and its catchment area comprised in Survey Nos.304/4 etc. to an extent of 5.70.0 Hectare of agricultural lands. The lakes are stated to have spread over 2.02

square kilo metres having capacity of water storage of 1.21. million cubic metre and the lake water cater to the irrigation requirement of the agriculturists of the village to an extent of 284 Hectare lands.

2. Initially, counter-affidavit was filed by respondent Nos.5 and 6 being the Public Works Department stating that no part of the lands of the Department had been encroached upon. In these circumstances, we have called upon respondent No.3/Assistant Director, Mamallapuram Local Planning Authority as well respondent No.8/Tahsildar, Thirukazhukundram to file their counter-affidavits setting out the land record position.

3. The learned Government Pleader also informed in this Court on 13.07.2015 that the house plots have been developed in the own patta lands of respondent No.1 and though initially it was thought that the same was with the approval of the competent authorities, there appears to be a doubt about this proposition i.e. whether any sanction had been obtained or not.

4. It is, thereafter, a counter-affidavit has been filed by respondent No.3/Assistant Director, Mamallapuram Local Planning Authority.

5. It is categorically stated in the aforesaid counter-affidavit of respondent No.3 that the owner of the VIP Empire Estate have formed unauthorised layout without adhering to the provisions of the Tamil Nadu Town and Country Planning Act, 1971 in terms of Section 49 which inter alia provides for the application for permission to be made to the appropriate planning authority for carrying out any development or making any building construction. Thus, the layout is unauthorised. The owner of VIP Empire Estate is stated not to have consulted the Director of Town and Country Planning and the Member Secretary of Mamallapuram Local Planning Authority for obtaining layout approval. The proposed layout boundary comprising Survey Nos.414 and 415 of Manamai village are falling under Agricultural Use Zone in Mamallapuram Local Planning Authority in the approved Master Plan. Thus, the owner was required to obtain the change of land use.

6. The counter-affidavit also states that the site falls in the Serilized Zone in Kalpakkam Nuclear Installation Local Authority Committee and thus, no objection certificate has to be obtained from the Kalpakkam Nuclear Installation Local Authority. The stand of the petitioner alleging various acts by the owner had been supported by stating that the same is without any sanction/authority.

7. The learned Government Pleader informs us that Notice under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 has been issued on 10.07.2015 giving seven days time to restore the land to its original position. The learned Government Pleader, on instructions, states that there has been no response of further proceedings even though no construction activities are now being

carried on in respect of the property.

8. The first respondent has chosen to absent himself from the Court proceedings.

9. In view of the affidavits filed, it is quite apparent that the use of the agricultural land for development of colony is without proper planning permissions apart from the requirement of obtaining sanction from Kalpakam Nuclear Installation Local Authority in view of its location.

10. We, thus, dispose of the writ petition in the following terms, leaving the parties to bear their own costs:-

- (i) In view of the Notice under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 served on the first respondent, no construction is permissible by the first respondent or any one claiming under him until and unless all necessary permissions are obtained.
- (ii) Seventh respondent/District Collector, Kanchipuram shall ensure due compliance of the aforesaid.
- (iii) The concerned authorities will ensure restoration of the land to its original position, unless there is valid sanction obtained, if such sanction is permissible.

-s/d-

Assistant Registrar(CO)

dt:16/09/2015

True Copy

Sub-Assistant Registrar

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To

- 1.The Director of Town and Country Planning,
Anna Salai, Chennai.
- 2.The Assistant Director,
Mamallapuram Local Planning Authority,
(Near Bus Depot) Chengalpattu.
- 3.The President,
Manamai Panchayat,
Thirukazhukundram Taluk,
Kanchipuram District.
- 4.The Secretary,
Public Works Department,
Water Resources Organisation,
For St. George, Chennai-9.
- 5.The Chief Engineer,
Chennai Region,
Public Works Department,
Water Resources Organisation,
Chepauk, Chennai-5.
- 6.The District Collector,
Kanchipuram.
- 7.The Tahsildar,
Thirukazhukundram,
Kanchipuram District.

+1 cc to Government Pleader High Court Madras sr.47588
+1 cc to Mr.A.S.Narasimhan, Advocate sr.47821

W.P.No.17682 of 2015

aa18/09/2015

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