

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2015

CORAM

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

The Hon'ble MR.JUSTICE M.M.SUNDRESH

W.P.No.3248 of 2009
and M.P.No.1 of 2009

Gandhi Nagar Residents Public Welfare
Association, (Regd. No.112/2005)m
Rep. By G.Sankar, Secretary. .. Petitioner

-vs-

- 1.The Commissioner
Public Works Department,
Chepauk, Chennai-5.
- 2.The Assistant Engineer
Water Resources Organisation
(Supply Division),
Public Works Department,
Padappai, Kancheepuram District.
- 3.The Secretary
Dept. Of Revenue Administration,
Fort St. George, Chennai-9.
- 4.The District Collector,
Kanchipuram, Kanchipuram District.
- 5.The Secretary
Dept. Of Adi Dravida Welfare,
Fort St. George, Chennai. .. Respondents

Petition under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct respondents 3 to 5 to conduct a survey in the said area of Rajiv Gandhi Nagar at S.No.439/1A, and after due enquiry, and implement the G.O. Ms.No.34 dated 23.01.2008 in favour of the residents of Rajiv Gandhi Nagar in S.No.439/1A.

For Petitioner : Mr.S.S.Vasudevan

For Respondents : Mr.S.T.S.Moorthy
Govt. Pleader for RR 1 to 5

O R D E R

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

The present writ petition has been filed by Residents' Association seeking to assail the notices issued to various occupants without even those occupants coming before the Court. It is not in issue that the occupants have no title to the land, i.e., no pattas have been issued.

2.The stand of the respondents, in pursuance to previous litigation, is that the encroachment is not permissible nor are persons entitled to pattas to whom notices have been issued, in view of the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

3.On a perusal of the prayer clause, it appears that the direction which the petitioner is really seeking is for conduct of survey in the area and implementation of G.O. Ms.No.34, dated 23.01.2008. As an interim measure of protection, they have obtained stay against the notices without furnishing any response to the notices.

4.A perusal of the aforesaid G.O. shows that the same refers to regularisation of encroachments in Government poramboke land as dwelling houses by issuing house site pattas. It is not applicable to the notices in question, as the allegation in the notice is of occupation of water body. There is, in fact, an adverse finding of a Division Bench of this Court in W.A.No.1081 of 2006 and connected petitions decided on 29.01.2008 holding the land to be a water area.

5.We also note with regret that after initially stay was granted, the respondents have not even cared to file a counter-affidavit and the matter has been pending for 5 years without any endeavour on part of the respondents to get the matter listed or making a prayer for lifting of stay. This raises the suspicion of collusive silence to help the petitioner.

6.On hearing learned counsel for petitioner, we find no merit in the petition and the concerned occupants, who were issued notices, were required to respond to the notices and follow the procedure laid down under the said Act and the rules framed thereunder. The notices

in question have been issued in the proforma prescribed under the Rules.

7.Writ Petition, thus, stands dismissed. No costs. The interim order stands vacated. Consequently, M.P.No.1 of 2009 stands dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra
To

- 1.The Commissioner
Public Works Department,
Chepauk, Chennai-5.
- 2.The Assistant Engineer
Water Resources Organisation
(Supply Division),
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- 5.The Secretary
Dept. Of Adi Dravida Welfare,
Fort St. George, Chennai.

1 cc to Mr. S.S.Vasudevan,Advocate, SR.No.4067
1 cc to Government Pleader,Sr.No.4269

W.P.No.3248 of 2009

mp(co)
pmk.18.2.2015