

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.3006/2015

A.Sarangan

.. Petitioner

Versus

1.The Secretary,
State of Tamil Nadu
St. George Fort, Chennai 600 009.

2.The Inspector of Police
G5 Police Station
Secretariat Colony, Chennai 600 010.

3.G.Chandrasekar

4.Tmt.Asha Bee

..

Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the 2nd respondent herein to give adequate police protection to the petitioner and his workmen during the construction work at Old No.5/1, New No.2/1, Reddy Colony, Ramalingapuram, Chennai 600 012 pursuant to petitioner's representation dated 19.01.2015.

For Petitioner : Mr.Ar.L.Sundaresan, Senior Counsel
for Mrs.Ar.L.Gandhimathi

For RR 1 & 2 : Mr.S.Gunasekaran, GA

ORDER

Heard Mr.Ar.L.Sundaresan, learned senior counsel for the petitioner and Mr.S.Gunasekaran, learned Government Advocate appearing for the respondents 1 and 2 and with their consent, the writ petition is disposed of at the admission stage itself.

2.Since the writ petition is disposed of at the admission stage itself without notice to the respondents 3 and 4, the merits of the allegations made by the petitioner as against them are not gone into and the same is left open to the authorities to look into the same.

3.The petitioner seeks for adequate police protection to enable the petitioner and his workmen to up construction in Old No.5/1, New No.2/1, Reddy Colony, Ramalingapuram, Chennai 600 012.

4.Earlier, the petitioner had approached this Court and filed a writ petition in WP.No.19540/2011 since the application for planning permission was not considered and issued. An order was passed in the said writ petition on 18.11.2013 by this Court directing the respondents to release the sanctioned planning dated 24.06.2011. In the said writ petition the 4th respondent herein was impleaded as the 3rd respondent and the Welfare Association was the 4th respondent therein. Aggrieved by such order, the 4th respondent filed WA.Nos.2450 and 2478/2013 and the Hon'ble Division Bench of this Court by order dated 10.07.2014, disposed of the writ appeals by issuing the following direction:-

"7. Admittedly, the writ petitioner has applied for grant of sanction/approval before the Corporation of Chennai for putting up construction in the property in dispute. In the counter affidavit filed by the Corporation before the learned single Judge, it has been stated at paragraph 6 as follows:

"6. I respectfully submit that the petitioner Thiru.Sarangan submitted the Planning Permission Application with xerox copy of documents for sanction of PPA/WDCO4/02948/2011, dated 16.6.2011 and it was scrutinized. The petitioner furnished the documents with patta issued by the Tahsildar, Purasawakkam-Perambur Taluk Office (C.A.504/2011 in SD/T.R.817/2010/2011, dated 27.5.2011) in favour of the petitioner. After verifying the documents, the PPA was sanctioned on 24.6.2011 and advice notice dated 24.6.2011 was issued to the petitioner for remittance of fees and the petitioner remitted the fees on 20.7.2011."

8. Thus, from the stand taken by the Corporation, as stated in the counter affidavit, it is seen that the approval was sanctioned only after verifying the documents furnished by the petitioner, who enclosed the patta issued by the Tahsildar at Purasawakkam-Perambur Taluk. If the appellants are still having any grievance with regard to the title to the property, for which the approval is granted, it is always open to them to

agitate before the competent civil Court and establish their rights. It is further contended by the appellants that civil suits are pending between the parties and a civil revision petition is also pending. But, it is also admitted by the appellants that no order preventing the Corporation from releasing the document or preventing the petitioner from putting up construction has been granted by any Court in any of these proceedings. Therefore, considering the fact that the Corporation has already sanctioned the approval, which has been directed by learned single Judge to release the document/approval to the writ petitioner, we find that no grounds are made out to interfere with the order passed by the writ Court. Accordingly, these writ appeals are dismissed. However, it is made clear that the parties are at liberty to agitate the matter before the competent civil Court and establish their respective right and claim over the property in dispute independently without reference to the orders passed by this Court both in the writ petition as well as in these writ appeals.

9. It is further represented by the learned counsel for the appellants that the construction to be put up by the first respondent/writ petitioner may be subject to the outcome of the orders to be passed by the civil Court. Needless to say that any construction by the petitioner is always subject to the orders to be passed by the civil Court and the writ petitioner cannot take advantage of the orders passed by this Court in these proceedings to claim equity latter. The second respondent-Corporation is directed to release the document within two weeks from the date of receipt of a copy of this order. No costs. Consequently, M.P. Nos.1 (2 petitions) and 2 of 2013 and 1 of 2014 are also dismissed."

5.The petitioner would state that pursuant thereto, he has started to put up construction. However, the private respondents appears to have approached the police authorities and are preventing the petitioner from putting up the construction. The petitioner has given a complaint on 19.01.2015 which has been acknowledged by the 2nd respondent/police as CSR.No.41/2015.

6.Since the complaint is pending before the 2nd respondent/police, there will be a direction to the 2nd

respondent/police to enquire into the matter after issuing notice to the petitioner as well as to the respondents 3 and 4 and examine the contentions raised and if the threat perception as projected by the petitioner is genuine, then adequate police protection shall be granted to the petitioner, subject to payment of the cost by the petitioner.

7.The writ petition is disposed of with the above directions.
No costs.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

AP

To

1.The Secretary,
State of Tamil Nadu
St. George Fort, Chennai 600 009.

2.The Inspector of Police
G5 Police Station
Secretariat Colony, Chennai 600 010.

1 cc to M/s.AL. Gandhimathi, Advocate sr. 6594

1 cc to Government Pleader, Sr.6669

WP.No.3006/2015

LRS (CO)

kk 12/2

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