

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.5557 of 2015

and M.P.No.1 of 2015

M/s. Padmashree Educational Trust [Petitioner]
Rep. by its Managing Trustee
Mr. N. Ravishankar
No.34 Redhills Road
Lakshmipuram Kolathur Chennai-99.

Vs

- 1 The Commissioner
Corporation of Chennai Rippon Buildings
Chennai-3.
- 2 The Zonal Officer
Corporation of Chennai Zone-14 No.6/64
Puzhuthivakkam Main Road Puzhuthivakkam
Chennai-91.
- 3 The Assistant Engineer
Corporation of Chennai Ward No.169
Division No.42 Zone-14 No.6/64
Puzhuthivakkam Main Road Puzhuthivakkam
Chennai-91.

[Respondents]

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to remove the unauthorized name board Chennai Corporation Sarathy Nagar Poonga Kottam No.169 Division-42 Zone-14 which has been put up by the respondents at the boundary of the southern side of the petitioner property being Plot No.214 admeasuring an extent of 9646 Sq.Ft. out of the total extent of 13-650 Sq.Ft. comprised in S.No.225/part Patta No.8050 as per Patta present S.No.225/2A1B and 225/30 situated at Madipakkam Madura Puzhudivakkam Village Sarathy Nagar 2nd Main Road (30 feet Road) as per document Sarathy Nagar Main Road presently known as Sarathy Nagar 2nd Street Tambaram Taluk (now Sholinganallur Taluk) Kanchipuram District forthwith and shift the same to the land which has been exclusively earmarked for the purpose of park to an extent of 1200 sq.ft. abutting south western side of the petitioner's property or to any other place.

For Petitioner : Mr.Ashokpathy for
M/s Pass Associates

For Respondents : Mr.P.V.Selvakumar

ORDER

Heard Mr.Ashokpathy, learned counsel for the petitioner and Mr.P.V.Selvakumar, learned counsel accepting notice on behalf of the respondent Corporation and with the consent of the learned counsel on either side, the writ petition itself is disposed of.

2. The petitioner seeks for a direction to remove the board which has been kept by the Corporation describing the area in an approved lay out as a park. According to the petitioner, the board has been erected on a wrong side and the land in which the board has been erected is the property which has been given by way of gift and it has not been shown as a park in the approved lay out, which was approved in early 1970s. In the typed set of papers, a copy of the lay out bearing LPDM/DDTP No.14/74 has been enclosed. In that, it is seen that there is a site measuring 91'0" x 150 '0" and the adjoining side site which is similar extent has been shown as park. It is to be noted that the site measuring 91'0" x 150 '0", there is no plot number assigned. The petitioner would assert that this area measuring 91'0" x 150 '0" was retained by the original promoter and it does not form part of the lay out and this has been sold and subsequently given as gift to the petitioner.

3. This issue cannot be decided in a writ petition especially when the original planning permission which was approved by the concerned planning authority does not specifically indicate the plot gifted to the petitioner. The petitioner would rely upon an information secured under the Right to Information Act and it is stated that in respect of Sarathy Nagar where the property is situated, the park area is only 1200 sq.ft. With this information, the petitioner sent a lawyer's notice to the respondents and since no action has been taken, the petitioner is before this Court.

4. In my view, no mandamus could be issued to dispose of the lawyer's notice. The proper procedure to be followed by the petitioner is to submit a representation along with all relevant documents to the respondents and thereafter appear before the respondents and demonstrate that the property which was gifted to the petitioner has not been used as park site or any public purpose utility site.

5. In the light of the above, there will be a direction to the petitioner to submit a representation to the 2nd respondent along with all the documents in respect of the claim annexing a copy of

this order and if such a representation is received, the 2nd respondent shall enquire into the matter and after affording an opportunity of personal hearing to the petitioner, pass orders on merits and in accordance with law, within a period of three months from the date of receipt of the representation along with a copy of this order.

The writ petition is disposed of with the above direction. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar
Dated:9.3.15

True Copy

Sub Assistant Registrar

To

- 1 The Commissioner
Corporation of Chennai Rippon Buildings
Chennai-3.
- 2 The Zonal Officer
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Puzhuthivakkam Main Road Puzhuthivakkam
Chennai-91.

+1 cc to M/s.Pass Associates,Advocate,SR.11751.

rj(co)
krd 10/3

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