

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2016

CORAM

The HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.12812 of 2014

1. VGN Nagar Residents Welfare Association,
rep. by its President,
Registration No.175 of 2002,
No.27, Anusha Street,
VGN Nagar, Phase II,
Nolambur, Chennai 600 095.

2. Pacific City Owners Association
rep. by its Secretary,
Registration No.53 of 2008,
Akshya Homes, Gurusamy Road,
Nolambur, Chennai 600095.

3. Jains Sunderbans Flat Owners' Association,
rep. by its President,
Registration No.382 of 2010
'Jains Sunderbans'
Gurusamy Road, Nolambur,
Chennai 600095.

4. Aishwaryam Phase -II
Flat Owners Welfare Association
rep. by its President,
Registration No.206 of 2006,
4th Main Road, Nalambur,
Chennai 600 095. ... Petitioners

Versus

1. The Government of Tamil Nadu
rep. by its Secretary,
Municipal Administration Department,
Fort St. George, Chennai 600009.

2. Chennai Metropolitan Development Authority,

rep. by its Member Secretary,
Thalamuthu Natarasan Maaligai,
Egmore, Chennai 600 008.

3.The Collector, Tiruvallur District.

4.The Tahsildar,Ambattur Taluk,
Ambattur, Chennai.

5.The Regional Joint Commissioner (South)
Corporation of Chennai,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai 600 020.

6.The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai 600003.

7.VGN Enterprises
rep. by its Proprietor,
V.N.Devadoss
No.11, Chellammal Street,
Shenoy Nagar, Chennai 600 030.

8.V.Rajan ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus, calling for the records of the 5th respondent dated 12.02.2014 in RJC(S) C.No.A3/296/2014 and consequently direct the respondent Nos.1 to 6 to recover the encroached land from the 7th respondent which he had gifted away by Gift Deed dated 08.11.2000 to the Commissioner, Villivakkam Panchayat Union and restore 50 feet road as approved in the CMDA P.P.D/L.O.No.89/2000 vide letter No.L1/35335/2000 dated 08.11.2000 in the Phase I of VGN Nagar lay out and connect the 50 feet road with the 4th main road of TNHB Nolabur Phase I Scheme and to recover the land earmarked as 'Park with Well & Pump Room' in TNHB Nolambur Phase 1 scheme from any other alternative usage which was gifted to the Commissioner, Villivakkam Panchayat Union by TNHB while forming the TNHB Nolambur Phase I scheme in 1988, Approved in Lay-out No.72/88 and direct the 2nd respondent to Reclassify the site as 'Public Road Use.', and road junction use.

For Petitioners

: Mr.Balan Haridas

For Respondents

: Mr.B.Kumar, Senior Counsel
for Mr.R.Murali for R.u7
Mr.N.Sampath for R.2
Mr.K.Soundarajan
for R.6, R.5
Mr.M.K.Subramanian
Government Pleader
for R.1, R.3 and R.4

ORDER

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

We have heard the learned counsel for the parties. We have perused the plan furnished by the Local Commissioner showing the situation at the site for the 50 feet wide road. The said plan is as under:

2. It is pointed out that the original road width was of varying size and now after demolition of the wall and the area made available by the 7th respondent, the road is consistently at least 40 feet. It is submitted that as per the planning permission, when development takes place on the right side, additional 10 feet width land strip will be made available, since the 50 feet road wide area is on the basis of development on both sides.

3. In our view, what has happened is that, instead of making available land on the left side, the 7th respondent has made the land available on the right side. Thus, a part of the yellow strip has been made available to ensure there is 40 feet wide road. It is agreed by the learned Senior Counsel for the respondent that this would imply that when development takes place on the right side, a 10 feet wide road in addition to what has been already done would have to be provided. In this behalf, he has referred to us the plan he has produced, which is as under:

The Orange and Green portions are the areas made available on the right side so as to make it a 40 feet wide road, and thus, the yellow portion shown by the Local Commissioner will stand extended to more than 10 feet, where some land has now been made available to complete the 40 feet, in order to make it a 50 feet wide road.

4. We thus take the aforesaid statements on record and the 7th respondent shall remain bound by the same.

5. The writ petition accordingly stands disposed of, leaving the parties to bear their own costs.

Sd/-
Assistant Registrar

//True Copy//

To Sub Assistant Registrar

1. The Secretary, Government of Tamil Nadu
Municipal Administration Department,
Fort St.George, Chennai 600009.

2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarasan Maaligai,
Egmore, Chennai 600 008.

3.The Collector, Tiruvallur District.

4.The Tahsildar, Ambattur Taluk,
Ambattur, Chennai.

5.The Regional Joint Commissioner (South)
Corporation of Chennai,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai 600 020.

6.The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai 600003.

+1cc to Mr.K. Soundararajan, Advocate, S.R.No.67247
+1cc to Mr.Balanharidass, Advocate, S.R.No.66585
+1cc to Mr. N. Sampath, Advocate Sr.No.66747
+1cc to Mr. R. Murali, Advocate Sr.No.67426 (01/02/2017)

rj(CO)
md(28/11/2016)

W.P.No.12812 of 2014