

N THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N.PRAKASH

W.P.No.2904 of 2003

1. Mrs.M.Mangammal
 2. M.Sundaramoorthy
 3. M.Nagarathinam
 4. M.Venkataraman
 5. M.Kalaiselvi
 6. M.Natarajan
- Petitioners

- vs.
1. The Commissioner,
Avadi Municipality,
Avadi, Chennai - 54.
 2. The Assistant Commissioner,
Urban Land Tax,
Poonamallee, Chennai - 22.
 3. The Joint Director of Town Planning,
Chennai.
 4. E.Kuppusamy
 5. S.Parasuraman
- Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or any other writ or order of direction in the nature of Writ forbearing the respondents, their men, agents, servants, subordinates or anybody claiming through the respondents from taking possession or interfering in any manner with the petitioners' peaceful possession and enjoyment of the property belongs to the petitioners situated in the Layout in Survey No.716/18A and 18B in an extent of 27 cents in Paruthipet Village within Avadi Municipality Limits, Poonamallee Taluk, Thiruvallur District .

For Petitioner	:	Mr.S.Srinivasan,
For R1	:	Mr.P.Srinivas, Standing Counsel
For R2 & R3	:	Mr.V.Jayaprakash Narayanan, Special Government Pleader.
For R4	:	No appearance
For R5	:	Mr.Ashok Kumar

ORDER

This writ petition has been filed seeking to forbear the respondents, their men, agents, servants, subordinates or anybody claiming through the respondents from taking possession or interfering in any manner with the petitioners' peaceful possession and enjoyment of the property belonging to the petitioners situated in the Layout in Survey No.716/18A and 18B in an extent of 27 cents in Paruthipet Village within Avadi Municipality Limits, Poonamallee Taluk, Thiruvallur District .

2. Heard Mr.S.Srinivasan, learned counsel for the petitioner, Mr.P.Srinivas, learned Standing Counsel for the first respondent, Mr.V.Jayaprakash Narayanan, learned Special Government Pleader for the second & third respondents and Mr.Ashok Kumar, learned counsel for the fifth respondent.

3. One R.Mannar, the original owner of a property, measuring about 2.33 acres in Survey No.716/18A and 18B in Paruthipattu Village, applied to the Executive Officer, Avadi Township for forming a layout of house sites. His application was accepted and by the proceedings in LPDM No.114/66 dated 27.04.1967, the third respondent permitted Mannar to form a layout.

4. The Executive Officer of Avadi Township by his proceedings in R.Dis.No.782/66 has also approved the sanctioned plan of the layout. Among 20 house sites, four plots were left out for children garden and other public utilities. After the death of Mannar, his heirs, who are the petitioners herein are now contending before this Court that Mannar had given 30% of the lands for public utility purpose, whereas, only 10% needs to be given and therefore, they are staking a claim for 20% of the land.

5. In this regard, Mannar is said to have given a representation on 20.07.1977 and had done nothing thereafter. Again, the petitioners have given a representation on 20.12.2002 and have now come up with the present petition for a mandamus, as aforesaid.

6. The learned counsel for the petitioner submitted that for all the adjacent lands, only 10% of the land was earmarked for public purpose, whereas, in the present case 30% land has been earmarked, which is highly excessive.

7. In the considered opinion of this Court, the fact remains that in the year 1967, Mannar was given the layout and he had accepted to give 27 cents for public purpose. Now, it is not open for his legal heirs to go back on it and contend

that they have given excess of land for public purpose. There is no statutory duty cast upon the respondents to dispose of the petitioners' representation. Hence, the mandamus as prayed for by the petitioners cannot be granted.

In the result, this writ petition is dismissed. No costs.

s/d-
Assistant Registrar

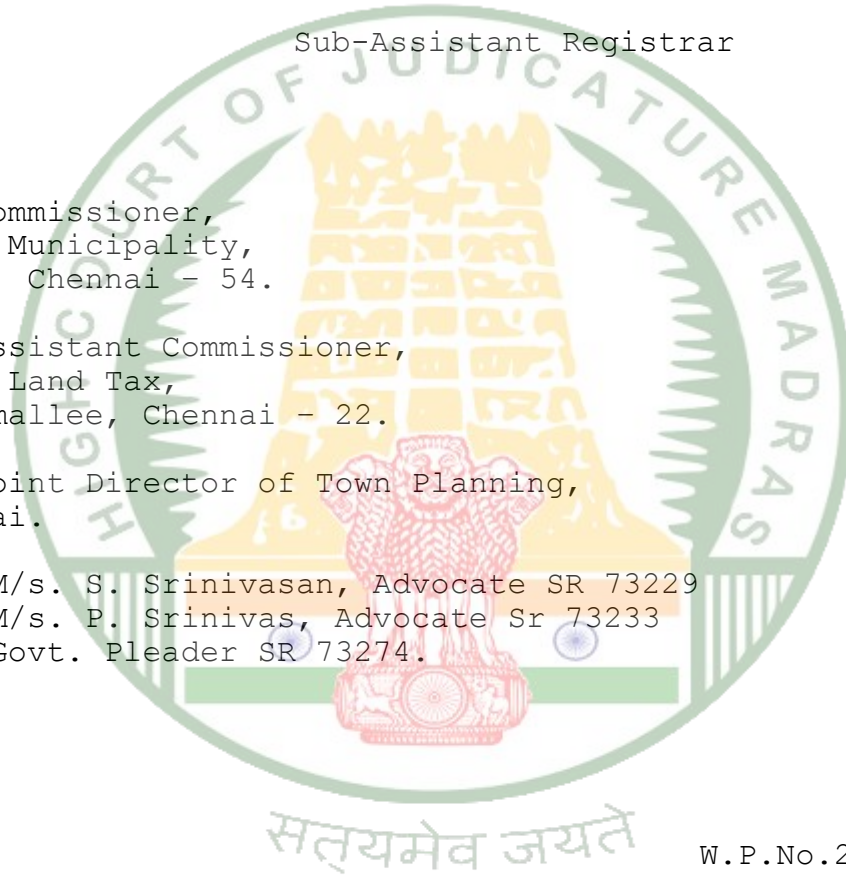
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Sub-Assistant Registrar

To

1. The Commissioner,
Avadi Municipality,
Avadi, Chennai - 54.
2. The Assistant Commissioner,
Urban Land Tax,
Poonamallee, Chennai - 22.
3. The Joint Director of Town Planning,
Chennai.

+1 CC to M/s. S. Srinivasan, Advocate SR 73229
+1 CC to M/s. P. Srinivas, Advocate Sr 73233
+1 CC to Govt. Pleader SR 73274.



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