

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 21880 of 2014 and M.P.1 of 2014 and M.P.No.1 of 2015
and

W.P.No.30225 of 2016 and W.M.P.No.26214 of 2016
and

W.P.No.25839 of 2016 and W.M.P.No.28060 of 2016 and
W.M.P.No.22140 of 2016

Adyar Venkatrathnam Nagar
Residents Welfare Association
Rep.by its Secretary M.Anand Petitioner in all W.Ps.

..Vs..

- 1.The Secretary to Government
Tamil Nadu Co-operative Societies Department,
Fort St.George,
Chennai - 600 009.
- 2.The Secretary to Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George,
Chennai - 600 009.
- 3.The Registrar of Societies (Housing),
Nandanam, Chennai - 600 035.
- 4.The Deputy Registrar of Societies (Housing),
No.12, HD Raja Street, Eldams Road,
Chennai - 600 018.
- 5.The President,
City Co-operative Housing Society, Adyar, Chennai
No.13, Sastri Nagar Shopping Complex,
Adyar,
Chennai - 600 020.

... Respondents in W.P.No.21880 of 2014

- 1.The Secretary to Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George,
Chennai - 600 009.

- 2.The Registrar of Co-operative Societies,
170, EVR Periyar High Road,
Kilpauk, Chennai - 600 010.
- 3.The Registrar of Co-operative Societies (Housing),
Tamil Nadu Housing Board Building,
I Floor, Nandanam, Chennai - 600 035.
- 4.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Ground Floor, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
- 5.The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Poonamallee High Road, Chennai.
- 6.The Director,
Office of the Director of Town and Country Planning,
Opposite to LIC, Chengalvarayan Building,
Fourth Floor, 807, Anna Salai,
Chennai - 600 002.
- 7.The President,
City Co-operative Housing Society, Adyar, Chennai X422
No.13, Sastri Nagar Shopping Complex,
Adyar, Chennai - 600 020.
- 8.The Secretary,
City Co-operative Housing Society, Adyar, Chennai X422
No.13, Sastri Nagar Shopping Complex ,
Adyar,
Chennai - 600 020.

...Respondents in W.P.No.30225 of 2016

- 1.The Secretary to Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St George,
Chennai - 600 009.

- 2.The Registrar of Societies (Housing)
Gandhi Nagar, Adyar, Chennai - 600 020.

3.The President,
City Co-operative Housing Society, Adyar, Chennai X422
No.13, Sastri Nagar Shopping Complex,
Adyar, Chennai - 600 020.

4.The Secretary,
City Co-operative Housing Society, Adyar, Chennai X422
No.13, Sastri Nagar Shopping Complex,
Adyar, Chennai - 600 020.

5.Ali Naser

6.The Sub Registrar,
Office of the Sub Registrar,
Adyar,
Chennai - 600 020.

...Respondents in W.P.No.25839 of 2016

PRAYER in W.P.No.21880 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents herein to pass orders on both the representations of the petitioners dated 28.11.2013 at the earliest point of time.

PRAYER in W.P.No.30225 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 6 to preserve the lands in Plot Nos.1C,2E and 6E comprised in Old Survey No.18/3 and New Survey No.38/1 of Pallipattu Village at Venkatrathnam Nagar, Adyar for public purpose.

PRAYER in W.P.No.25839 of 2016:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the respondents 3 and 4 from in any way alienating or encumbering the property viz.,Plot No.1C, 2E and 6E comprised in Old Survey No.18/3, New Survey No.38/1 of Pallipattu Village, in Venkatrathnam Nagar, Adyar, Chennai - 20 to any third parties including the 5th respondent herein.

For Petitioner:Mr.J.Pothiraj in all W.Ps.
For R1 to R4 :Mr.S.T.S.Murthy,AAG
Asst.by Mrs.T.Girija,GA
For R5 :Mr.L.P.Shanmuga Sundaram,Spl.GP
in W.P.No.21880 of 2014

For R1 to R3 and 6 : Mr.S.T.S.Murthy,AAG
Asst.by
Mr.L.P.Shanmuga Sundaram,Spl.GP
For R7 and R8 :Mrs.T.Girija, GA
For R4 and R5 : No appearance
in W.P.No.30225 of 2016

For R1,2,4 and 6 :Mr.S.T.S.Murthy,AAG
Asst.by
Mr.T.Girija, GA
For R3 : Mr.L.P.Shanmuga Sundaram,
Spl.GP
For R5 : No appearance
in W.P.No.25839 of 2016

C O M M O N O R D E R

W.P. No.21880 of 2014:-

The petitioner's association has filed the present Writ Petition in W.P.No.21880 of 2014 praying for writ of mandamus, directing the respondents herein to pass orders on both the representations of the petitioners dated 28.11.2013; one representation to furnish the list of members and the reasons for deleting the names of the members of the society and also as a corrective measure to induct them as members in the society. The other representation permitting the members of society to use the above said property as a playground for the member of the association. The aforesaid representations had been made by the petitioner's association and the same is pending.

2. According to the petitioner, at the time of laying of plots, plot in Old Survey No.18/3, New Survey No.38/1, Pallipattu Village in Venkatrathnam Nagar, Chennai was reserved for public purpose as per the sanctioned plan. The said space comprised in Plots 1C,2E and 6E measuring four grounds was earmarked for public purpose. However, since encroachment has been made upon a portion of the said property and the society ratified the construction and sold that extent of land to the said encroacher, the petitioner society being aggrieved by the same, filed a Writ Petition in W.P.No.14569 of 1996 before this

Court, and this court, by order dated 14.10.2003, directed the Society namely, the 5th respondent herein, not to prevent the members of the petitioner from cleaning the bushes in the vacant space and finally permitted the association to clean the bushes.

3. The operative portion of the order dated 14.10.2003 passed in the aforesaid Writ Petition No.14569 of 1996 reads as under:-

Para 7: Coming to the grievance of the petitioner-association that the office bearers of the petitioner-association are not allowed to remove the bushes in the vacant site and whey they attempted to clear the bushes, a complaint was lodged by the 4th respondent. Since the place in question is earmaked for public purpose, the 4th respondent society is not entitled to prevent the members of the petitioner association even to clean the bushes in the vacant space and that the 4th respondent is entitled to put up a Community Hall for the use of the public only. The question as to whether the 4th respondent society is entitled to sell the land which is meant for public purpose to the 6th respondent, can be decided in the suit filed by the Special Officer and it is always open to the members of the petitioner association to question the same before the appropriate forum. With the above observations, the Writ Petition is disposed of. No costs. Consequently, W.M.P.No.2619/1887 is closed.

4. Thereafter, the petitioner's association made representations to the respondents on 28.11.2013 (two representations) seeking the aforesaid relief.

5. Now, the counsel for the petitioner would submit that the said representation has been made on 28.11.2013 before the respondents herein, it is suffice to mould the prayer made in the Writ Petition, seeks to submit a comprehensive representation along with all the relevant documents to the third respondent within a period fixed by this Court.

6. Mr.S.T.S.Murthy, the learned Additional Advocate General would submit that any representation made by the petitioner's association would be considered by the concerned responnent in accordance with law.

7. The counsel for the petitioner has submitted that enquiry may conducted by the independent agency. Since, allegation has been attributed against the 3rd and 4th respondent. Learned Additional Advocate General allegation is baseless, without any materials, without prejudiced, the enquiry may be conducted by the representation of Co-operative Society (Housing)

8. In the light of the above submissions made by the counsel appearing on both sides and taking into consideration the earlier order passed by this Court dated 14.10.2013, liberty is granted to the petitioner to file a fresh representation to the third respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said representation, the third respondent is directed to forward the said representation to the Registrar of Co-operative Society (Housing), Vepery, within a period of two weeks, thereafter on receipt of the same, the said authority shall consider the said representation on merits and in accordance with law after providing due opportunity to the parties concerned and pass orders within a period of twelve weeks. It is needless to state that the petitioner is entitled to get the copy of the list of members from the 5th respondent.

9. With the above direction, the Writ Petition No.21880 of 2014 is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

W.P.No.25839 of 2016:-

W.P.No.25839 of 2016 is concerned, the petitioner's association filed, praying for Writ of Mandamus, forbearing the respondents 3 and 4 from in any way alienating or encumbering the property viz., Plot No.1C, 2E and 6E comprised in Old Survey No.18/3, New Survey No.38/1 of Pallipattu Village, in Venkatrathnam Nagar, Adyar, Chennai - 20 to any third parties including the 5th respondent herein.

2. In view of the order passed by this Court in W.P.No.21894 of 2014, if any representation is made by the petitioner within the stipulated time as stated in W.P.No.21880 of 2014, there shall be an order of status quo to be maintained by both the parties.

3. In the result, this Writ Petition No.25839 of 2016 is disposed of. Consequently, connected Miscellaneous Petitions are closed.

W.P.No.30225 of 2016:-

In view of the order passed in W.P.No.25839 of 2016, at this stage, there is no necessity to adjudicate the matter, this Writ Petition No.30225 of 2016 is dismissed. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government
Tamil Nadu Co-operative Societies Department,
Fort St.George,
Chennai - 600 009.
- 2.The Secretary to Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George,
Chennai - 600 009.
- 3.The Registrar of Societies (Housing),
Nandanam, Chennai - 600 035.
- 4.The Deputy Registrar of Societies (Housing),
No.12, HD Raja Street, Eldams Road,
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City Co-operative Housing Society, Adyar, Chennai
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Office of the Director of Town and Country Planning,
Opposite to LIC, Chengalvarayan Building,
Fourth Floor, 807, Anna Salai,
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9.The Sub Registrar,
Office of the Sub Registrar,
Adyar, Chennai - 600 020.

10.The Registrar of Co-operative Societies,
170, EVR Periyar High Road,
Kilpauk, Chennai - 600 010.

11.The Registrar of Co-operative Societies (Housing),
Tamil Nadu Housing Board Building,
I Floor, Nandanam, Chennai - 600 035.

12.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Ground Floor, Gandhi Irwing Road,
Egmore, Chennai - 600 008.

13.The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Poonamallee High Road, Chennai.

+1cc to Mr.L.P.Shanmugasundaram, Advocate Sr.19829
+1cc to the Government Pleader Sr.20102
+1cc to Mr.J.Pothiraj, Advocate Sr.20148
+1cc to Mr.J.Pachiyappa, Advocate Sr.19906

W.P. No. 21880 of 2014 and M.P.1 of 2014 and M.P.No.1 of 2015and
W.P.No.30225 of 2016 and W.M.P.No.26214 of 2016andW.P.No.25839
of 2016 and W.M.P.No.28060 of 2016 and W.M.P.No.22140 of 2016

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