

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.20093 of 2009
and

M.P.Nos.1 of 2009, 3 to 6 of 2011 and M.P.No.2 of 2012

1. Pannerselvam
2. Muthian
3. Kannan
4. Valmurthy
5. Dilipkumar
6. Neelakandan
7. Logammal (deceased)
8. Santhanammal
9. D.Doss
10. Manimegalai

(P9 & P10 substituted in the place
of deceased P7 as per order dated
19.01.2011 in M.P.No.1 of 2011
in W.P.No.20083 of 2009) ... Petitioners

..Vs..

1. Chennai Metropolitan Development Authority,
Represented by its Member/Secretary,
Thalamuthu Natarajan Building,
Egmore, Chennai-8.

2. Ozone Projects Private Ltd.
Represented by its Managing Director,
No.51/7/2, Ratna Avenue,
Civil Station, Off Richmond Road,
Bangalore-560025

3. Mr. Thiruvavukkarasu

(impleaded as per order dated
19.01.2010 in MP.1/10 in WP.20093/09

... Respondents

R4-N. Adikesavan
(R4 impleaded as per order dt.19.1.11
MP.2/11 in WP.20093/09 by EDRJ & DMPJ)

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for records of the impugned order passed by the 1st respondent in PP No.4631 dated 13.04.2009 pursuant to the orders passed by the 1st Respondent in Letter No.C/6809/2008 dated 24.10.2008 and quash the same.

For Petitioner : Mr.P.Chandraskear

For Respondents : Mr.C.Johnson (R1)
Mr.R.Swaminathan (R2)
Mr.R.Malaiswamy (R3)
Mr.A.Saravanan (R4)

O R D E R

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The petitioner in this Writ Petition makes a challenge to the planning permission granted by the first respondent in favour of the second respondent, which was entertained and notices were ordered.

2. The learned counsel for the petitioner submitted that the petitioner herein filed a revision against the order of Settlement Officer dated 10.11.1998, before the Commissioner and Director of Survey and Settlement. The said revision was allowed in his favour, vide order dated 05.07.1999, with a direction that the patta stood in the name of M/s.Sri Krishna Tiles Potteries (Madras) Private Ltd., in respect of those two survey numbers and the sub-division records to be revised and modified suitably.

2. It is further submitted by the learned counsel for the petitioner that challenging the above said order, allowing the revision M/s.Krishna Tiles and Potteries filed a revision before the Commissioner of land Administration, Chepauk, Chennai and after hearing both parties, the said authority vide orders dated 14.05.2001 has allowed the said revision, thereby setting aside the order dated 05.07.1999 passed by the Commissioner and Director of Survey and Settlement, Chennai and challenging the same, he filed a Writ Petition in W.P.No.12612 of 2001 and though the same was entertained no interim orders were granted. Therefore, the first respondent has accorded planning permission. As no interim order is granted in favour of the petitioner, taking advantage of the same, M/s.Krishna Tiles Potteries (Madras) Private Ltd., has sold the land in question to the second respondent who after obtaining planning permission have put up many number of flats and sold in favour of the third parties, thereby creating third party rights. It is submitted

that Writ Petition in W.P.No.12613 of 2003 was dismissed during the year 2011. Challenging the same, the Principal as well as the Power of Attorney filed Writ Appeal in W.A.Nos.844 and 845 of 2011. The said appeals were entertained and he prays for deferment in this Writ Petition, till the disposal of the Writ Appeals.

4. This Court also heard the submissions of Mr.C.Johnson, learned counsel appearing for the first respondent, who on instructions would submit that the construction put up by the second respondent are strictly in conformity with the planning permission.

5. R.Swaminathan learned counsel for the second respondent would submit that 13 residential towers have been completed during May 2014 and January 2016 and more than 800 Sale Deeds have been registered conveying the undivided share of land and more than 600 families are living in the flats. He filed a Memo dated 26.07.2017 along with the documents and therefore he submitted that in the light of the said development, nothing survives for further adjudication in this Writ Petition.

6. This Court considered the submissions made on either side and perused the materials placed before this Court.

7. The fact remains that as on today the flats have been constructed by the second respondent in accordance with the sanctioned plan/building approval. The third party rights were also created among the members who have purchased the flats. The Writ Appeals in W.A.Nos.844 and 485 of 2011 are also pending.

8. This Court after hearing the rival submissions and without going into the merits of the case is of the considered view that unless the petitioner succeeds in the pending litigation in the Writ Appeal in W.A.Nos.844 and 845 of 2011, he cannot prosecute this Writ Petition and therefore there is no point in keeping this Writ Petition pending.

9. If the petitioner succeeds in the Writ Appeals, he is always at liberty to work out his further remedy in accordance with law, before the competent forum.

10. With the above observation, this Writ Petition is closed. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1. The Member/Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
Egmore, Chennai-8.
2. The Managing Director,
Ozone Projects Private Ltd.
No.51/7/2, Ratna Avenue,
Civil Station, Off Richmond Road,
Bangalore-560025

+1cc to Mr.C.Johnson, Standing Counsel, sr.53460

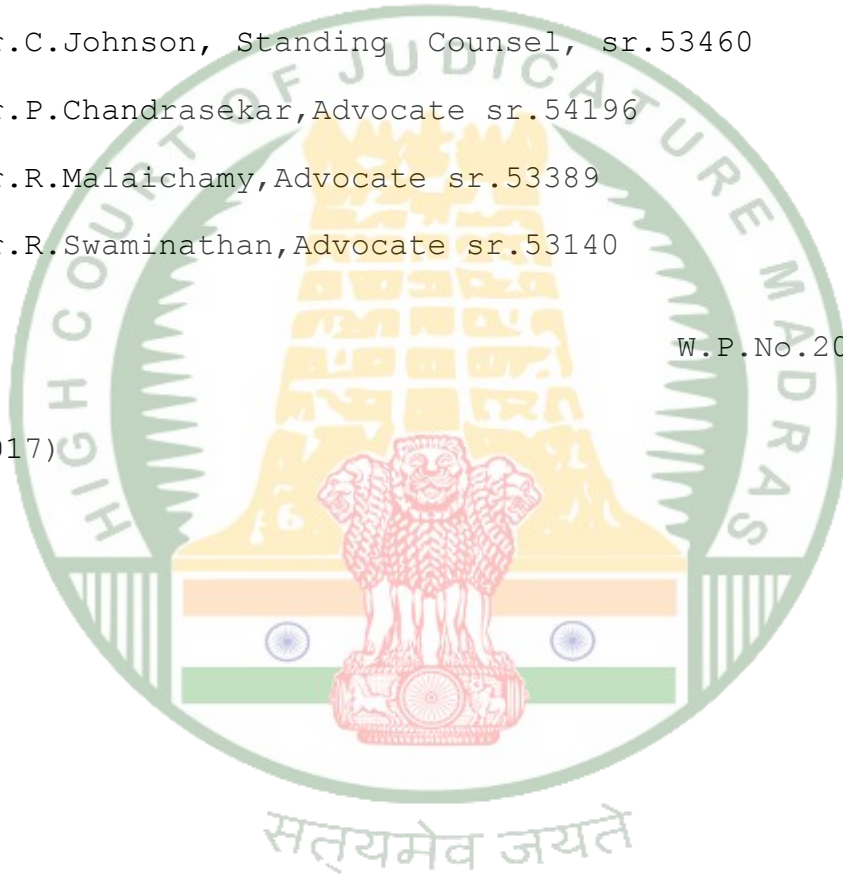
+1cc to Mr.P.Chandrasekar, Advocate sr.54196

+2cc to Mr.R.Malaichamy, Advocate sr.53389

+1cc to Mr.R.Swaminathan, Advocate sr.53140

W.P.No.20093 of 2009

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