

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.26993 of 2017
and
W.M.P.No.28799 of 2017

Sathya Nagar Welfare Association,
Rep. by its President K.S.Kannan,
No.32/B, Paadasalai Street,
Sathya Nagar, Padi,
Chennai-600 050. .. Petitioner

Vs.

1. Corporation of Chennai,
Represented by its Commissioner,
Rippon Building,
Chennai.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Chennai-600 008. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents herein not to grant any planning permission or building permission to put up any construction over the public open space i.e. the Plot No.SP/1 and SP/2 in S.Nos.67/2 and 68 measuring about 14,400 Sq.Ft. of Mogappair Village, the then Saidapet Taluk, now Ambattur Taluk, the then Chengalpet District, now Thiruvallur District, situate in Sathya Nagar, morefully described hereunder to the accompanying petition, meant exclusively for public purpose, with a consequential direction to the respondents herein not to issue completion certificate.

Schedule of property

All the piece and parcel of land and building including the compound wall in Plot No.SP/1 and SP/2 in the approved lay out plan by L.P.D.M.No.31/74, by DTCP, situated in Mogappair Village, Saidapet Taluk, Chengalpet District in S.Nos.68 and 67/2 of an extent of 14,400 Sq.Ft. and thereabouts lying within the sub-registration District of Koonoor, Chennai.

For petitioner : Mr.S.Sathyanarayanan
For respondents : Mr.T.C.Gopalakrishnan for R-1
Mr.N.Sampath for R-2

ORDER

The petitioner has come forward with this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents herein not to grant any planning permission or building permission to put up any construction over the public open space i.e. the Plot No.SP/1 and SP/2 in S.Nos.67/2 and 68 measuring about 14,400 Sq.Ft. of Mogappair Village, the then Saidapet Taluk, now Ambattur Taluk, the then Chengalpet District, now Thiruvallur District, situate in Sathya Nagar, morefully described hereunder to the accompanying petition, meant exclusively for public purpose, with a consequential direction to the respondents herein not to issue completion certificate.

Schedule of property

All the piece and parcel of land and building including the compound wall in Plot No.SP/1 and SP/2 in the approved lay out plan by L.P.D.M.No.31/74, by DTCP, situated in Mogappair Village, Saidapet Taluk, Chengalpet District in S.Nos.68 and 67/2 of an extent of 14,400 Sq.Ft. and thereabouts lying within the sub-registration District of Koonoor, Chennai.

2. Mr.T.C.Gopalakrishnan, learned counsel takes notice for the first respondent and Mr.N.Sampath, learned counsel takes notice for the second respondent.

3. Learned counsel for the petitioner submitted that there is a lay-out in Sathya Nagar and it has been approved in LPDM No.31 of 1974. He further stated that there is a dispute between the petitioner-Association, which is the first defendant in O.S.No.139 of 1998 on the file of the District Munsif Court, Ambattur and the plaintiffs therein, and that there is an observation by the Civil Court that the land(s) is meant for school and playground. There was an appeal in A.S.No.2 of 2008 before the Sub-Court, Poonamallee as against the judgment and decree passed by the trial Court in the said suit, and however, the finding of both the Courts below were set aside by this Court in the Second Appeal in S.A.No.808 of 2009. The said suit was filed only seeking injunction and not declaration. According to the petitioner, the third parties who were rowdy elements, are trying to grab the property and that the place is meant for Open Space Reserve (OSR). Learned

counsel for the petitioner referred to Section 2(34) of the Tamil Nadu Town and Country Planning Act and contended that the place is meant for public open space. The pleadings of the plaintiffs and the defendants in the said suit show that the place is meant for school and playground in the approved lay-out and that the permission has not been granted for running the school. The petitioner however has not made the plaintiffs in the said suit, as party-respondents in this Writ Petition. Detailed arguments have been addressed by the learned counsel for the petitioner.

4. At this stage, learned counsel for the first respondent-Corporation submitted that there is no representation made by the petitioner-Association to the Corporation on the subject and the Writ Petition itself is not maintainable. The lay-out plan had been approved by the Ambattur Town Panchayat, which shows that the place is meant for school and playground.

5. As there is no representation made by the petitioner-Association to any of the respondents herein as of today and that the petitioner has not made the plaintiffs in the said suit as party-respondents herein, the Writ Petition is not maintainable and the same is dismissed. However, liberty is given to the petitioner-Association to make a representation to the respondents for necessary relief and in case no steps are taken by the respondents on such representation, or rejection of representation, it is open for the petitioner-Association to agitate their remedy in accordance with law. No costs. W.M.P. is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cs

To

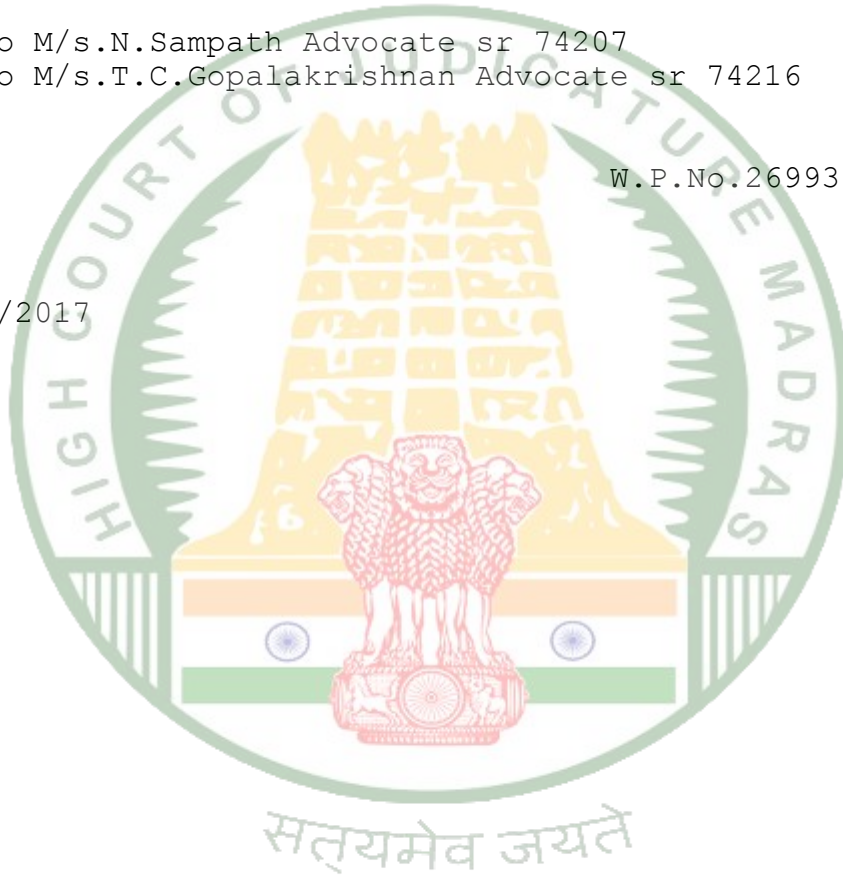
1. Corporation of Chennai,
Represented by its Commissioner,
Rippon Building,
Chennai.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Chennai-600 008.

+1 cc to M/s.N.Sampath Advocate sr 74207

+1 cc to M/s.T.C.Gopalakrishnan Advocate sr 74216

W.P.No.26993 of 2017

aa13/11/2017



WEB COPY