

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2017

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P. No.31675 of 2016

and

W.M.P.No.27484 of 2016

M/s. Mayajaal Entertainment Limited,  
Represented by its Managing Director,  
B. Udeep Bogollu,  
having its registered office at  
No.34/1, East Coast Road,  
Kanathur, Chennai - 603 112. .... Petitioner

vs.

1. The Commissioner,  
Kancheepuram Municipality,  
Kancheepuram.
2. Member Secretary,  
Mamallapuram Local Planning Authority (MLPA),  
Five Radhas Shopping Complex,  
Mamallapuram - 603 104.
3. The Village Panchayat President,  
No.35, Kanathur Reddy Kuppam Panchayat Office,  
East Coast Road,  
Kanathur Reddy Kuppam,  
Thiruporur Thaluk,  
Kancheepuram - 603 112. .... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of mandamus directing the Respondents 1 to 2 to remove and demolish the encroachment made by the 3<sup>rd</sup> Respondent or any other person in all or any part of lands situated in S.Nos.49/11, 49/12, 48/1, 48/2(part), 48/3(part), 48/5 (part), 47/7A, 47/7B1, 47/7B2, 36/2(part), 49/13, in Kanathur Reddy Kuppam Village, Thiruporur Taluk, Kancheepuram District and further to retain the said land as "Open Space" as per the Master Plan approved by the Director or Town and Country Planning.

For Petitioner : Mr.Kumarpal R. Chopra  
For R-1 : Mr.G.B.Rajesh  
  
For R-2 & R3 : Mr.S.Divakar,  
Special Government Pleader.

ORDER

The petitioner has come forward to file this writ petition inter-alia alleging that the third respondent has put up an unauthorised construction contrary to Section 8 of the Tamil Nadu Parks Fields and Open Spaces (Preservation and Regulations) Act, 1959. The land in question has been gifted by the petitioner to be utilised as open space.

2.In tune with the allegation made by the petitioner, a counter affidavit has been filed by the second respondent, wherein it has been stated as follows:

"6. It is submitted that the Government of Tamilnadu exercising its powers Under Section 34(2) of the Town and Country Planning Act had laid down the development control regulations to be added to the Master Plan for Mamallapuram Local Planning Area vide G.O.Ms.No.130, Housing and Urban Development, dated 14.06.2010, schedule - I, Open Space Reservation in S.No.2, the site so reserved shall be exclusive of the back space and spacing between blocks and shall be free from any construction structure.

7. It is submitted that it is also pertinent to mention that Under Section 8 of the Tamilnadu Parks fields and open spaces (Preservation and Regulations) Act, 1959. No person except with the previous sanction of the Government construct any structure or building that would affect the utility of the open space. However with complete disregard to the Development Control Regulations, construction of permanent structure is being put up in the above mentioned lands gifted towards as for open space by M/s. Mayajaal Entertainment limited to Kanathur Reddy Kuppam.

8. It is respectfully submitted that it is humbly prayed that this Hon'ble Court to accept this report and to remove the already existing structure/construction immediately as it was carried out in a complete violation of the Development Control Regulations issued under the Town and Country Planning Act."

3. Thus from the above, it is clear that the second respondent has put up construction unauthorizedly in total disregard and violation of the Development Control Regulations and Section 8 of the Tamil Nadu Parks Fields and Open Spaces (Preservation and Regulations) Act, 1959.

4. Thus, in view of the same, this Court is constrained to allow the writ petition. Accordingly, the writ petition is allowed and a direction is issued to the second respondent to see to it that the third respondent removes the unauthorised construction made, within a period of 8 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

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East Coast Road,  
Kanathur Reddy Kuppam,  
Thiruporur Thaluk,  
Kancheepuram - 603 112.

+1cc to Mr.G.B.Rajesh, Advocate Sr. 44790  
+1cc to the Government Pleader Sr. 44754

W.P. No.31675 of 2016

SR(CO)  
VR(07/07/2017)