

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2017

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE M.SUNDAR

W.P.No.39093 of 2016
and
W.M.P.No.33482 of 2016

Padi Kalaivanar Nagar Makkal Sevai
Mandram, Rep. by its President,
N.Shanmugham.

... Petitioner

-Vs-

1. The Government of Tamil Nadu,
By its Secretary, Revenue Department,
Secretariat, Chennai-9.
2. The Tamil Nadu Housing Board,
Rep. by its Chairman,
Egmore, Chennai.
3. The Executive Engineer cum
Administrative Officer, J.J.Nagar Division,
TNHB Commercial Building,
Tirumangalam, Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to forbear the respondents from any manner putting up construction or altering the nature of water body in S.No.442, Mogappair, Ambattur Taluk, Tiruvallur District.

For Petitioner : Mr.N.A.Nissar Ahmed
For Respondents : Mr.M.K.Subramanian
Government Pleader for R-1
: Mr.V.Anandamoorthy
for RR 2 & 3

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner has approached the Court alleging that the respondents / Tamil Nadu Housing Board (TNHB) is putting up construction on water body in S.No.442, Mogappair, Ambattur Taluk, Tiruvallur District.

2.In the counter-affidavit, it has been pointed out that the permission to enter the land was granted as far back as 04.09.1984, lay out was prepared and approved by the CMDA in 1999. Housing sites were sold to general public by lot and a common area was handed over to the Local Body for future maintenance. In this approved lay out plan, 36 cents at the southwest corner (boundary line) in S.No.442 was reserved for future construction by the Board and it is here that the Board has proposed to construct 20 HIG flats and got approval from the CMDA on 31.07.2015. The tender has been finalized, work order issued, site handed over and the construction work is at progress from February, 2016.

3.The respondents claim that the present petition is not really a public interest litigation but the one in a series of litigation to grab the land reserved for the TNHB. It is pointed out that suits and petitions have been filed seeking to raise the title disputes. The photographs of the construction produced before us also show that the skeletal structure is complete as of 04.02.2017. The present petition was filed in November, 2016.

4.Learned counsel for the respondents, thus, submits that these are in the nature of abuse of legal proceedings under the garb of public interest litigation and has drawn our attention to the order dated 04.04.2016 in W.P.No.5566 of 2015 where it was noticed that such proxy litigation should not be encouraged, as also the pleas of this nature where there has been regulated planning and allocation of land years back.

5.We have heard the learned counsel for parties and are in agreement with the submissions of the learned Government Pleader for the respondents. It is difficult to believe that the petitioner society would be unaware of the developments on the land which has been a planned development. The fact that different title suit or a writ petition is filed qua this portion of land left out for future development itself shows that there is possibly more of private interest than any public interest. At this belated stage, the issue is sought to be raised and even if the current construction is taken into account, it should have been going on for about ten months.

6.We, thus, find that the present petition really has no public interest involved.

Writ petition is, accordingly, dismissed. No costs. Consequently, W.M.P.No.33482 of 2016 is also dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sra

To

1. The Secretary to Govt. of Tamil Nadu,
Revenue Department,
Secretariat, Chennai-9.
2. The Chairman,
Tamil Nadu Housing Board,
Egmore, Chennai.
3. The Executive Engineer cum
Administrative Officer,
J.J.Nagar Division,
TNHB Commercial Building,
Tirumangalam, Chennai.

+1cc to Mr.V.Anandamoorthy, Advocate, S.R.No.7607
+1cc to Mr.N.A.Nissar Ahmed, Advocate, S.R.No.7686
+1cc to the Government Pleader, S.R.No.7498

W.P.No.39093 of 2016

PPA (CO)
CA(15/02/2017)

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