

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.01.2018

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

W.P.No.8166 of 2017 and
WMP Nos.8944 and 8945 of 2017

Jansi Rani

.. Petitioner

Vs.

1. The Government of Tamilnadu
Rep by the Secretary Revenue Administration
Disaster Management,
Fort St. George, Chennai - 600 009
2. The District Collector,
Kancheepuram District
Kancheepuram
3. The Tahsildar,
Thiruporur Taluk,
Thiruporur, Chengalpattu District
Chengalpattu
4. The Revenue Divisional Officer,
Chengalpattu District,
Chengalpattu
5. S.Manjula
6. Sundar
7. The Block Development Officer,
Karikattu Kuppm Village,
Muttukadu Panchayat,
Thiruporur Taluk,
Kanchipuram District

(R7 Impleaded as per order dated
21.11.2017 by MSNJ & NSSJ
in WMP No.31562 of 2017
in W.P.No.8166 of 2017)

..Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the entire records of the order of 1st floor allotment made in favour of the 5th and 6th Respondents herein in the proceedings of the 3rd Respondent/ Tahsildar, Thiruporur in his proceedings Na.Ka.56911/05 Tsunami TK/8A/218/1417 dated 30.08.2017 Revenue E4(2) Department and quash the same and consequently direct the official respondents to demolish the illegal unauthorised construction of building approximately 760 sq.ft., on the northern side of the disputed property in patta no.337 at No.20, Nagalamman 1st Street Tsunami Kudiruppu, Karikattu Kuppam, Muttukadu Village, Thiruporur T.K. Kanchipuram District.

For Petitioner : Ms.Rayeesa Fathima for
Mrs. P.Bagyalakshmi

For Respondents : Mr.A.N.Thambidurai for R1 to R4 & R7
Special Government Pleader
Mr.V.Premkumar for R5 and R6

O R D E R

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

Heard the Learned Counsel for the Petitioner and the respective Learned Counsel for the Respondents.

2. It comes to light from the Status Report filed by the 3rd Respondent / Tahsildar, Thiruporur that the Petitioner was allotted a house in Tsunami Kudiyiruppu, Karikattukuppam, Muttukadu in S.No.97/4 measuring an extent of 112 Sq/Meter in Nagalamman First Street as per G.O.Ms.172 Rev (EE3) dated 31.03.2007. Further, the First Floor was also constructed as it is and it was allotted to 5th Respondent in the same way. There is a vacant portion in the front as well as backside of the building. In addition, the northern side of the building has been kept vacant and the 5th and 6th Respondents with the permission of Local Meenava Panchayat encroached the vacant portion on the northern side by extending First Floor thereby leaving the front and back portion, which is kept vacant leaving to the Petitioner.

3. As a matter of fact, it is evident from the Status Report filed by the 3rd Respondent that the total area of plot allotted is 112 Sq/Mts and the built up area works out to nearly 300 Sq.Ft., The vacant space in and around the building except on south can be enjoyed by both. The 5th and 6th Respondents have raised the building on the northern side by extending their First Floor and occupied the vacant space on northern side.

4. Apart from the above, the Status Report of the 3rd Respondent / Tahsildar, Thiruporur proceeds to state that construction work was stated to be carried out by the 5th and 6th

Respondents only after getting resolution for portion availability from Local Meenava Panchayat. As it is, the Petitioner was forced to enjoy vacant portion before the building and on the back of the building. Further, the Petitioner seeks that the encroachment by the 5th and 6th Respondents on the northern side by damaging the window of the Petitioner is a violation as per Rules. But, no prior permission was given by the authorities concerned for the construction. The Petitioner as well as 5th and 6th Respondents have equal rights over the Plot and that the additional construction have been made only after obtaining proper permission from the Administration. The 5th and 6th Respondents cites the Meenava Panchayat Resolution as permission.

5. It is represented on behalf of the Petitioner that even though the Sub Collector, Chengalpet was required to take proper action on the direction of this Court, the Sub Collector, Chengalpet had called for all the parties to attend the enquiry, but the Respondents 5 and 6 had not taken part in the said enquiry.

6. When the factual situation is that the Respondents 5 and 6 had raised a building on the northern side by extending from First Floor and occupied the vacant space on the northern side and when the Petitioner as well as the Respondents 5 and 6 have equal rights over the plot, additional construction should have been made only after obtaining permission from the Administration Concerned. However, in the instant case, the Respondents 5 and 6 had not obtained requisite permission from the competent authority to put up additional construction in the subject matter in issue. In short, the Respondents 5 and 6 had encroached the common land, which is meant for public purpose. Indeed, the additional construction put up by the Respondents 5 and 6 with the permission of Local Meenava Panchayat has no sanctity in the Eye of Law and by no stretch of imagination, the Local Meenava Panchayat can take Law into their own hands and act on their own in a whimsical and fanciful manner. As such, this Court is left with no other option but to issue necessary direction to the 7th Respondent / the Block Development Officer, Karikaatu Kuppam Village, Muttukadu Panchayat, Thiruporur Taluk, Kancheepuram District to take necessary steps in removing the unapproved construction put up by the Respondents 5 and 6 in the encroached portion within a period of four weeks from the date of receipt of copy of this order and to report compliance to this Court by means of a report addressed to the Registrar Judicial (Incharge), of this Court. If any police assistance is required, the 7th Respondent / the Block Development Officer, Karikaatu Kuppam Village, Muttukadu Panchayat, Thiruporur Taluk, Kancheepuram District is at liberty to seek the said assistance and to remove the encroachment put up by the Respondents 5 and 6, within the time determined by this Court.

With the above said observation(s) / direction(s) the Writ Petition is disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

/sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

ssd
To

1. The Government of Tamilnadu
Rep by the Secretary Revenue Administration
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2. The District Collector,
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Kancheepuram
3. The Tahsildar,
Thiruporur Taluk,
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4. The Revenue Divisional Officer,
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Chengalpattu
5. The Block Development Officer,
Karikattu Kuppam Village,
Muttukadu Panchayat,
Thiruporur Taluk,
Kanchipuram District
6. The Registrar [Judicial]
(incharge),
High Court, Madras
(for favour of information and
necessary follow-up action)

+1 cc to Mr. V. Premkumar, Advocate Sr.No.4672
+1 cc to the Govt., Pleader, Sr.No.4846

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ths : 03/02/2018