

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN
W.P.No.9477 of 2018

and

W.M.P.No.11471 of 2018

Dr.Vasudevan Road Residents' Welfare Association
Represented by its President M.S.Ramaswamy
having its office at
Door No.19, Dr.Vasudevan Road,
Kilpauk, Chennai 600 010.

... Petitioner

-Vs-

1.The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai 600 003.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
Egmore, Chennai 600 008.

3.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai 600 007.

4.The Prince Apartment Owners Association,
New No.18/ Old No.59, Ormes Road,
Kilpauk, Chennai 600 010.

... Respondents

Prayer:

Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 and 2 to demolish the illegal/unauthorised sheds erected by the 4th respondent in the place of OSR which was earmarked as play ground in D.No.1, Dr.Vasudevan Road, Kilpauk, Chennai 600 010, restore the same as play ground.

For Petitioner :Mr.Vedavallikumar

For Respondents:Mr.A.Nagarajan (for R1)
Mr.Raja Srinivas (for R2)

Mr.A.N.Thambidurai (for R3)
Special Government Pleader

R-4 (Dispensed with)

O R D E R

(Order of the Court was delivered by N.KIRUBAKARAN, J)

The petitioner is a residents welfare association, which complains that the area which has been earmarked for children's park has been converted into car sheds and commercial food points. Therefore, the petitioner has given representation to the respondents on 04.12.2017 and in spite of receipt of the said representation, the respondents have not considered the same, which compelled the petitioner to approach this Court.

2.Heard Mr.Vedavallikumar, learned counsel for the petitioner; Mr.R.Nagarajan, learned counsel, who takes notice on behalf of the 1st respondent; Mr.Raja Srinivas, learned counsel, who takes notice on behalf of the 2nd respondent and Mr.K.N.Thambidurai, learned Special Government Pleader, who takes notice on behalf of the 3rd respondent. Notice to the 4th respondent is dispensed with as this Court intends to direct respondents 1 to 3 to dispose of the petitioner's representation, after giving notice to the 4th respondent.

3.The members of the petitioner association have got houses at Dr.Vasudevan Road. The next road is Ormes Road. Dr.Vasudevan Road is a dead end road and CMDA declared the area as purely residential and commercial activities are prohibited. Dr.Vasudevan Road is a cutting off Ormes Road. It is located between Millers Road on the east and Sylvan Lodge Colony on the west. The road has width of 25 feet.

4.A multi storied apartment complex has been built in the name of "Prince Apartments" at New No.18/ Old No.59, Ormes Road, which is a 9 storied building. The area earmarked as OSR (Open Space Recreation area) for the said building has been encroached upon by the developer/4th respondent. The 4th respondent unauthorisedly converted the Open Space Recreation area into covered car sheds numbering 12, out of which 6 openings are from

the Apartment side and 6 openings are with shutters on Dr.Vasudevan Road. The unauthorised conversion of the OSR area into car park and commercial shops creates lots of problems to the residents of the petitioner/association. That apart, as per law the 4th respondent has got no right to convert any OSR for any other purpose and it should be kept as an open space.

5.Since it has been encroached upon and building has been put up, the petitioner gave representation to the 1st respondent on 05.03.2016 and thereafter, another letter to respondents 1 to 3 dated 04.12.2017. But till date it did not evoke any response or reply. Since respondents 1 to 3 did not consider the representation of the petitioner and remove the unauthorised construction put up on the OSR area or dispose of the representation, the petitioner has come before this Court.

6.Taking into consideration that the petitioner gave representation alleging that the 4th respondent has put up unauthorised construction in the OSR area, it is appropriate to direct respondents 1 to 3 to inspect the property after giving notice to the 4th respondent as well as to the petitioner and to confirm whether there is encroachment or not and if it is so, as per law, respondents 1 to 3 are directed to remove the encroachment and restore the original position viz., OSR position, within a period of four weeks from the date of receipt of a copy of this order. The jurisdictional police is directed to extend appropriate police protection for the said exercise.

7.With the above direction, this Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sai

To

1.The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai 600 003.

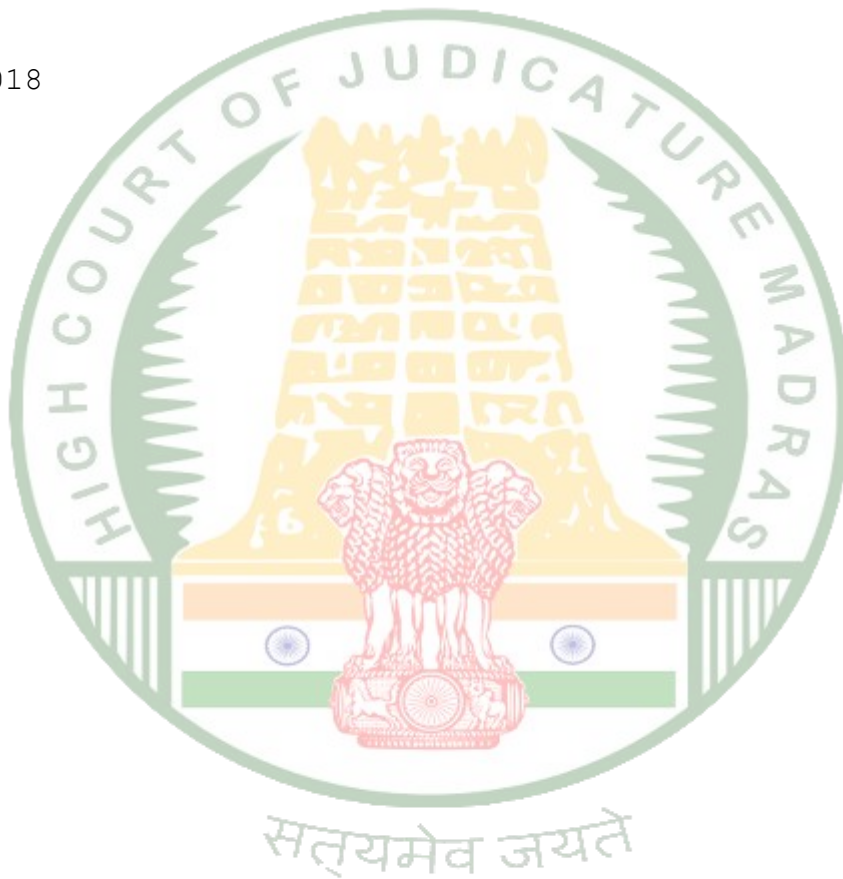
2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
Egmore, Chennai 600 008.

3.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai 600 007.

+1 cc to the Govt Pleader sr 29212
+2 ccs to Mrs.Vedavallikumar Advocate sr 28664

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