

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 10.01.2018
CORAM
THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.8856 of 2017
and
W.M.P.No.9719 of 2017

1.M.Manickam
2.M.Balasubramanian
3.Logasundari Karunambal @
Karunambal Vanavarayar

...Petitioners

Versus

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

2.The Assistant Commissioner,
Zone XV, Corporation of Chennai,
Sholinganallur,
Chennai - 600 119.

3.The Health Officer,
Corporation of Chennai,
Ripon Building,
Park Town,
Chennai - 600 003.

4.The Tahsildar,
Sholinganallur Taluk,
Sholinganallur,
Chennai - 600 119.

.. Respondents

Prayers: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondents herein to forthwith consider the representation of the petitioners dated 18.3.2017 and take immediate action on the same in accordance with law by preventing any illegal / unauthorized use of the petitioners' lands comprised in Survey No.406/78, 406/79 and 406/80 of No.148 Okkiyam-Thoraipakkam Village, Sholinganallur Taluk, Kancheepuram District, Ward No.193 within Chennai Corporation limits, admeasuring a total extent of 24.25 acres or thereabout by permitting any portion of it to be used as a Cremation Ground or otherwise.

For Petitioners
For Respondents

: Ms.AL.Ganthimathi
: Mr.T.C.Gopalakrishnan
Standing Counsel for R1 to R3
Mr.N.Manikandan,
Government Advocate, for R4

O R D E R

The petitioners have come up with the Writ Petition for issuance of writ of mandamus, directing the respondents to take immediate action on the basis of their representation dated 18.03.2017 in accordance with law by preventing any illegal / unauthorized use of the lands comprised in Survey Nos.406/78, 406/79 and 406/80 of No.148 Okkiyam-Thoraipakkam Village, Sholinganallur Taluk, Kancheepuram District.

2. The case of the petitioners is that they are the absolute owners of the land measuring to an extent of 24.25 acres in Survey Nos.406/78, 406/79 and 406/80 of No.148 Okkiyam-Thoraipakkam Village, Sholinganallur Taluk, Kancheepuram District, by virtue of the registered sale deeds dated 01.11.1963. Ever since they are in absolute possession and enjoyment of the said property. Further, the Patta in respect of the said property was duly transferred in the name of the petitioners and all the Revenue Records are standing in the name of the petitioners.

3. The learned counsel appearing for the petitioners submitted that, when the petitioners went to inspect the property for the future development, they found a small shed was put up on the western end of the property and the area was used as cremation ground. Immediately, the shed was removed and the land is lying vacant. Subsequently, the petitioners sent representation to the respondents on 18.3.2017 and the same was received on 22.03.2017. Despite receipt, no action was taken, hence, this Writ Petition.

4. In the counter filed by the second respondent, it has been stated that in order to verify the claim of the petitioners, a letter dated 24.04.2017 was addressed to the fourth respondent / the Tahsildar, Sholinganallur Taluk. He has given a reply letter dated 26.05.2017 by enclosing the 'A' Register copy stating that the land in Survey Nos.406/78, 406/79 and 406/80 is a private land and patta has been issued to the said land.

5. Heard Ms.AL.Ganthimathi, learned counsel appearing for the petitioners and Mr.T.C.Gopalakrishnan, learned standing counsel appearing for the respondents 1 to 3 and Mr.N.Manikandan, learned Government Advocate appearing for the fourth respondent and perused the material documents available on record.

6. The learned standing counsel appearing for the respondents 1 to 3 on instructions submitted that the land in question is a patta land and at present the land is not used by the public as burial ground.

7. In the light of the counter affidavit filed by the second respondent and the submissions made by the learned standing counsel for the respondents 1 to 3, this Court is of the opinion that the petitioners are entitled to succeed in this Writ Petition.

8. Accordingly, this writ petition is allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ms

To

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

2.The Assistant Commissioner,
Zone XV, Corporation of Chennai,
Sholinganallur,
Chennai - 600 119.

3.The Health Officer,
Corporation of Chennai,
Ripon Building,
Park Town,
Chennai - 600 003.

4.The Tahsildar,
Sholinganallur Taluk,
Sholinganallur,
Chennai - 600 119.

+2cc to Government Pleader SR.No.2391 & 2397/18
+1cc to Mr.T.C.Gopalakrishnan, Advocate SR.No.2120/18
+1cc to Mrs.AL.Gandhimathi, Advocate SR.No.2570/18

VGI (CO)
sm:6.2.2018

W.P.No.8856 of 2017
and
W.M.P.No.9719 of 2017