

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 20.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P. No.24932 of 2018

Anupama V.Rao

petitioner

Vs

- 1 The Commissioner
Greater Chennai Corporation Rippon
Buildings Chennai.
- 2 The Commissioner of Police
Chennai Metropolitan City Vepery Chennai-7.
- 3 The Executive Engineer
Greater Chennai Corporation Zone No.5
Division No.61 Chetpet Chennai-31.
- 4 The Inspector of Police
Chetpet Police Station Chetpet Chennai-31.
- 5 Chennai Metropolitan Water
Supplies and Sewerage Board Chetpet
Chennai.
- 6 World University Service Centre
Rep. by the General Secretary 8/18
Mayor V.R.Ramanathan Salai Chetpet
Chennai-31.

... respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 1 to 5 to restore the possession of car parking area open space main entrance gate on southern side of access to Hotel area including kitchen portion of the backside of the Polymer Restaurant at No.8/18 Mayor V.R.Ramanathan Salai Chetpet Chennai-31 for which the petitioner sent representation to the respondents on 05.09.2018.

For petitioner : Mr.R.Vinoth Kumar

For Respondents : Mr.R.Arunmozhi, for respondents 1 to 3
Mr.Pothiraj, Spl.G.P., for R-4

O R D E R

(made by K.K.SASIDHARAN, J.)

The petitioner, who is a tenant under the 6th respondent, has come up with this Writ Petition for a direction to the Commissioner, Greater Chennai Corporation, to restore the area for car parking on the southern side of the hotel, at D.No.8/18, Mayor V.R.Ramanathan Salai, Chetpet, Chennai on the ground that the vacant area has been used for car parking ever since the commencement of the lease.

2. The petitioner entered into a lease agreement with the 6th respondent for running a hotel. The 6th respondent permitted the petitioner to use the common area which was earmarked as open space while developing the property. The Corporation at a later point of time took possession of the open area as it was earmarked for a public purpose. The petitioner submitted series of representations requesting the Corporation to release the land. Since follow up action was not taken, the petitioner was constrained to file this Writ Petition.

3. The core question is as to whether there is any right to the petitioner to call upon the Chennai Corporation to restore possession of the open area which was reserved as open space while approving the layout.

4. There is no doubt that the common area was shown as an open space while approving the layout by the Chennai Corporation. The Government of Tamil Nadu appears to have allotted the land measuring 3 grounds and 2256 sq.ft for construction of the building for housing World University Service Centre at Chetpet. The sixth respondent appears to have used the open space for various purposes contrary to the purpose for which it was earmarked in the approved layout. The representation dated 3 July 2018, submitted by the sixth respondent to the Chennai Corporation indicates that only a right to use the land was claimed. Since the land in question was earmarked as an open space, the sixth respondent being the allottee of a specified extent of land, has no vested right to

claim that the nearby open area should also be annexed to the allotted land. The open space is earmarked for various purposes by the Corporation. The Corporation has no right to assign or part with the land. The Corporation has to use the land only for public purposes. It would not be possible for the Corporation to alienate the land, as it was reserved as open space.

5. The petitioner is a tenant under the sixth respondent. Since the sixth respondent has no right to claim restoration of the parking area, the petitioner has no better right, as she is only a tenant. There should be an element of right and corresponding duty to issue a Writ of Mandamus. The petitioner has no right to call upon the Chennai Corporation to restore possession of the vacant land. The Corporation is not bound to act in accordance with the demand made by the petitioner. We are therefore of the view that the petitioner has no justifiable claim to direct the Chennai Corporation to restore the open space for parking vehicles. We therefore do not find any reason to entertain the Writ Petition.

6. In the upshot, we dismiss the Writ Petition. No costs. Consequently, W.M.P.Nos.28972 to 28975 of 2018 are also dismissed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Commissioner
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Rippon Buildings Chennai.
- 2 The Commissioner of Police
Chennai Metropolitan City Vepery Chennai-7.
- 3 The Executive Engineer
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- 4 The Inspector of Police
Chetpet Police Station Chetpet Chennai-31.
- 5 Chennai Metropolitan Water
Supplies and Sewerage Board, Chetpet,
Chennai.

+1cc to Mr.R.Ramakrishnan, Advocate, S.R.No.65442

+1cc to the Government Pleader, S.R.No.65830

W.P. No.24932 of 2018

GJ(CO)
GSP(25/10/2018)



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