

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 27.06.2018

Delivered on : 17-07-2018

CORAM

THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.Nos. 5357, 5358, 2591 to 2593 and 6915 of 2011 and
W.M.P.No.2697 of 2011 & M.P.Nos.1 to 11 of 2011

ELANKUMARAN ...PETITIONER IN W.P.NO.5357 OF 2011
1 K.GOPALAKRISHNAN ...PETITIONER in WP No.5358 OF 2011
1 ELANKUMARAN ...PETITIONER in WP No.2591 OF 2011
1 THIRUNAVUKARASU ... PETITIONER in WP No.2592 OF 2011
1 K.GOPALAKRISHNAN ... PETITIONER in WP No.2593 OF 2011
1 THIRUNAVUKARASU ... PETITIONER in WP No.6915 OF 2011

Versus

1. THE EXECUTIVE OFFICER,
SPECIAL VILLAGE TOWN PANCHAYAT,
KALINJUR, KATPADI TALUK,
VELLORE DISTRICT.

2. THE CORPORATION OF VELLORE,
REP. BY ITS COMMISSIONER, VELLORE.

...RESPONDENTS IN W.P.5357 & 5358/2011.

1 THE EXECUTIVE OFFICER
SPECIAL VILLAGE TOWN PANCHAYAT KALINJUR
KATPADI TALUK VELLORE DIST.

2 THE CORPORATION OF
VELLORE REP.BY ITS COMMISSIONER VELLORE.
(R2- IMPEADED AS PER ORDER
DT.10.11.2017 IN WMPS.2695 & 2696/17
IN WPS.5357 & 5358/2011)

... RESPONDENT in WP No.5357 OF 2011

1 THE EXECUTIVE OFFICER
SPECIAL VILLAGE TOWN PANCHAYAT KALINJUR
KATPADI TALUK VELLORE DIST.

2 THE CORPORATION OF VELLORE
REP.BY ITS COMMISSIONER VELLORE.

(R2- IMPEADED AS PER ORDER
DT.10.11.2017 IN WMP.2695& 2696/17
IN WP.5357& 5358/2011)

... RESPONDENT in WP No.5358 OF 2011

- 1 THE EXECUTIVE OFFICER
SPECIAL VILLAGE TOWN PANCHAYAT KALINJUR
KATPADI TK VELLORE DT
- 2 SARAVANAN
S/O.V.GOPAL 31 BHARATHIDASAN NAGAR 5TH
STREET MADHI NAGAR EXTN. GANDHI NAGAR
VELLORE
- 3 J.ANANTHA MURTHY
S/O.V.JAGANNATHAN 12 BHARATHIDASAN NAGAR
5TH STREET MADHI NAGAR EXTN. GANDHI NAGAR
VELLORE
- 4 T.SUSILA DEVI
W/O. A.AMIRTHALINGAM 20 BHARATHIDASAN
NAGAR 3RD STREET MADHI NAGAR EXTN. GANDHI
NAGAR VELLORE
- 5 P.PALANI
S/O.C.PONNUSAMY 41 BHARATHIDASAN NAGAR
2ND STREET MADHI NAGAR EXTN. GANDHI NAGAR
VELLORE
- 6 K.RAJENDRAN
S/O.K.KUPPAN 18 BHARATHIDASAN NAGAR MADHI
NAGAR EXTN. GANDHI NAGAR VELLORE
- 7 SATYABAMA
W/O.GOVINDASAMY 5/11 WEST STREET
BHARATHIDASAN NAGAR MADHI NAGAR EXTN.
GANDHI NAGAR VELLORE
- 8 R.AMIRTHALINGAM
S/O.S.RAMALINGAM 3/1 BHARATHIDASAN NAGAR
MADHI NAGAR EXTN. GANDHI NAGAR VELLORE
- 9 E.ANANDA RAMAN
S/O. ETHIRAJALU REDDY 5/2 BHARATHIDASAN
NAGAR 5TH STREET MADHI NAGAR EXTN. GANDHI
NAGAR VELLORE

- 10 PRASANTH
S/O.SWAMIDOSS 30 5TH STREET BHARATHIDASAN
NAGAR MADHI NAGAR EXTN. GANDHI NAGAR
VELLORE.(R2 TO R10-IMPL AS PER ORD.DT.
24/11/11 BY MMSJ)
11. THE CORPORATION OF VELLORE
REP. BY ITS COMMISSIONER VELLORE. (R-11
IMPLD. ORD DT.27/11/12 BY KCJ IN MP.3/12 IN
WP.2591/11) ... RESPONDENT in WP No.2591 OF 2011

- 1 THE EXECUTIVE OFFICER
SPECIAL VILLAGE TOWN PANCHAYAT KALINJUR
KATPADI TK VELLORE DT
- 2 SARAVANAN
S/O.V.GOPAL 31 BHARATHIDASAN NAGAR 5TH
STREET MADHI NAGAR EXTN. GANDHI NAGAR
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MADHI NAGAR EXTN. GANDHI NAGAR VELLORE

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NAGAR 5TH STREET MADHI NAGAR EXTN. GANDHI
NAGAR VELLORE

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S/O.SWAMIDOSS 30 5TH STREET BHARATHIDASAN
NAGAR MADHI NAGAR EXTN. GANDHI NAGAR
VELLORE

(R2 TP R10-IMPL AS PER ORDER DT
24/11/2011 BY MMSJ IN MPS 2 & 2/2011 IN WPS
2591 TO 2593/2011)

11. THE CORPORATION OF VELLORE
REP. BY ITS COMMISSIONER VELLORE. (R-11
IMPLD. ORD DT.27/11/12 BY KCJ IN MP.3/12 IN
WP.2592/11) ... RESPONDENT in WP No.2592 OF 2011

1 THE EXECUTIVE OFFICER
SPECIAL VILLAGE TOWN PANCHAYAT KALINJUR
KATPADI TK VELLORE DT

2 SARAVANAN
S/O.V.GOPAL 31 BHARATHIDASAN NAGAR 5TH
STREET MADHI NAGAR EXTN. GANDHI NAGAR
VELLORE

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5TH STREET MADHI NAGAR EXTN. GANDHI NAGAR
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2ND STREET MADHI NAGAR EXTN. GANDHI NAGAR
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GANDHI NAGAR VELLORE
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NAGAR MADHI NAGAR EXTN. GANDHI NAGAR
VELLORE

(R2 TP R10-IMPL AS PER ORDER DT
24/11/2011 BY MMSJ IN MPS 2&2/2011 IN WPS
2591 TO 2593/2011)

11. THE CORPORATION OF VELLORE
REP. BY ITS COMMISSIONER VELLORE. (R-11
IMPLD. ORD DT.27/11/12 BY KCJ IN MP.3/12 IN
WP.2593/11)
... RESPONDENT in WP No.2593 OF 2011

- 1 THE EXECUTIVE OFFICER ... RESPONDENT in WP No.6915/11
SPECIAL VILLAGE TOWN PANCHAYAT KALINJUR
KATPADI TALUK VELLORE DISTRICT.

Prayer: This Writ Petition is filed under Article 226 of the
Constitution of India, praying for the issuance of Writ of
Certiorarified Mandamus to,

WP No.5357/11

Calling for the records of the respondent in his proceedings
Na.Ka.No.73/2011 dated 11.02.2011 and quash the same and to
forbearing the respondent from interfering with the petitioners
peaceful possession and enjoyment of the land comprised in
S.No.S.No.39/1 and 39/2, bearing Plot No.18A, Bharathidasan
Nagar, Kalinjur Special Village Town Panchayat, Katpadi Taluk,
Vellore District.

WP No.5358/11

Calling for the records of the respondents in his proceedings Na.Ka.No.73/2011 dated 11.02.2011 and quash the same and forbearing the respondent from interfering with the petitioners peaceful possession and enjoyment of the land comprised in . S.No.39/2, bearing Plot No.1A, and 17A Bharathidasan Nagar, Kalinjur Special Village Town Panchayat, Katpadi Taluk, Vellore District

WP No.2591/11

Forbearing the respondent from interfering with the petitioners peaceful possession and enjoyment of the land comprised in S. No. 39/1 and 39/2, bearing plot No.18A, bharathidasan Nagar, Kalinjur Special Village Town Panchayat, Katpadi Taluk, Vellore District except by due process of law

WP No.2592/11

Forbearing the respondent from interfering with the petitioners peaceful possession and enjoyment of the land comprised in S. No. 38/3, 39/1, bearing plot No.28A and 29A, Bharathidasan Nagar, Kalinjur Special Village Town Panchayat, Katpadi Taluk, Vellore District except by due process of law

WP No.2593/11

Forbearing the respondent from interfering with the petitioners peaceful possession and enjoyment of the land comprised in S. No. 39/2, bearing plot No.1A and 17A, Bharathidasan Nagar, Kalinjur Special Village Town Panchayat, Katpadi Taluk, Vellore District except by due process of law

WP No.6915/11

Calling for the records of the respondents in his proceedings Na.Ka.No. 73/2011 dated 11.02.11 and quash the same and forbearing the respondent from interfering with the petitioner peaceful possession and enjoyment of the land comprised in S.No.38/3 and 39/1, bearing Plot No.28A, Bharathidasan Nagar, Kalinjur Special Village Town Panchayat, Katpadi Taluk, Vellore District.

For Petitioners:Mr.P.Wilson, SC for
Mr.V.Parivallar in all WPs

For respondents:Mr.T.M.Pappiah, Spl.G.P. for
R1 & R2 in all WPs
M/s.P.Shanthi for R2 in
WP Nos.5357, 5358 of 2011 and
R11 in WP 2591 to 2593 of 2011
Mr.V.Raghavachari for
R3 to R10 in WP Nos.2591 to 2593/11

COMMON ORDER

All these Writ Petitions are arising out of the same impugned order dated 11.2.2011 of the erstwhile Executive Officer, Special Village Town Panchayat, Kalinjur, Katpadi taluk, Vellore District, in and by which, permission granted to the petitioners for putting up construction of house sites in respective S.Nos.38/3, 39/1 and 39/2, Bharathidasan Nagar, Kalinjur Special Village Town Panchayat, Katpadi taluk, Vellore District, came to be cancelled on the ground that the proposed construction is encroaching upon 60 ft public road envisaged in the plan.

2. Of the above total six Writ Petitions, three Writ Petitions were filed challenging the impugned order dated 11.2.2011 regarding the cancellation of building permission and the other three writ petitions were filed originally for issuance of Writ of Mandamus, forbearing the respondents from interfering with the peaceful possession and enjoyment of the petitioners of their respective properties.

3. The case of the petitioners is that they had purchased the house sites under the registered sale deeds in the year 2007. It appears that after purchase, the petitioners applied for planning permission, which was also obtained on 02.06.2009 from the authority for putting up house construction in their respective plots purchased by them. According to the petitioners, originally there was a proposal of 60 ft road which was earmarked in the locality concerned as per Vellore Master Plan. However, in view of the representations of the local residents, who purchased the plots in the neighbourhood, the width of the road came to be reduced from 60 ft to 23 ft. On the revision of the plan, the petitioners have made arrangements for putting up housing construction and spent huge amount on the same. However, at this, the authority concerned attempted to interfere with the construction proposed to be put up in the respective house sites by the petitioners on the ground that the same was encroaching upon the originally proposed 60 ft road as per the Master Plan.

4. According to the petitioners, although initially an order of interim injunction was granted in respect of three Writ Petitions wherein, Mandamus was the prayer, however, notwithstanding the same, subsequently, an order was passed on 11.2.2011 cancelling the planning permission granted to the petitioners, which is the subject matter of challenge in the above other respective three writ petitions.

5. Shri P.Wilson, learned senior counsel appearing for all the writ petitioners, at the outset, would submit that consequent upon the impugned action, the petitioners were put to great hardship as originally the competent authority had given planning permission, however, they had gone back on their promise and subsequently, passed the impugned orders cancelling the planning permission for putting up housing construction. According to the learned senior counsel, the revised plan provides only 23 ft road in the place of 60 ft. and therefore, there cannot be any encroachment at all on the part of the petitioners. In any event, the learned senior counsel would urge this Court that the first respondent which was under the jurisdiction of Vellore Municipality, later, upgraded as Vellore Corporation which has been impleaded as second respondent, can be directed to reconsider the entire issue afresh in view of passage of considerable time.

6. Upon notice, Mr.T.M.Pappiah, learned Special Government entered appearance for respondents 1 and 2 and Ms.P.Shanthil, learned counsel and Mr.V.Raghavachari, learned counsel entered appearance for other respondents.

7. Since the submission made by the learned senior counsel does not touch on the merits and de-merits of the claim of the petitioners and this Court's intervention is merely sought for only to direct the second respondent to reconsider the entire issue afresh by taking into consideration of subsequent development that might have happened during the pendency of the Writ Petitions, this Court is of the considered view that there cannot be any legal or valid objection from the respondents side.

8. In view of the above submission made by the learned senior counsel for the petitioners, this Court directs the second respondent to consider the claim of the petitioners as projected in the Writ Petitions afresh by taking into consideration all the relevant facts and circumstances and subsequent development that had taken place in regard to proposed plan reducing the public road from 60 ft. to 23 ft. The second respondent is directed to pass a detailed order as to why the claim of the petitioners could not be acceded to.

9. It is also open to the petitioners to submit a comprehensive representation in this regard enclosing the copies of the respective affidavits filed in support of the Writ Petitions to the competent authority and the competent authority shall consider the same and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, the impugned order in Na.Ka. No.73/2011 dated 11.2.2011 is hereby set aside.

10. With the above directions, the Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

suk
To

1. The Executive Officer,
Special Village Town Panchayat,
Kalinjur, Katpadi taluk,
Vellore District.

2. The Commissioner, Vellore.
The Corporation of Vellore,
Vellore.

+1 CC to Mrs.P. Shanthi, Advocate sr 46883.

+6 Ccs to Mr.V. Parivallal, Advocate sr 46724 to 46729.

W.P. Nos.5357, 5358
2591 to 2593 and 6915 of 2011

BR(CO)
SP(31/07/2018)



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