

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.26798 of 2008 and
MP.Nos.1 and 2 of 2008

Muthu

... Petitioner

Versus

- 1.The Chairman,
Tamil Nadu Slum Clearance Board,
Chepauk, Chennai - 600 005.
- 2.The Member Secretary, CMDA,
Thala Muthu Natarajan Maligai,
No.2, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
- 3.The Executive Engineer,
Tamil Nadu Slum Clearance Board,
Division No.V,
Teynampet, Chennai - 600 018.
- 4.The Commissioner,
Pallavaram Municipality,
Having its office at New Colony,
Chrompet, Chennai - 600 044.

5.Sugumaran

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking Writ of Certiorari, to call for records pertaining to the issue of the revised plan in planning permit No.3 of 2007 dated 25.04.2007 MUDP-I, MUDP-II/TNUDP/TNSCB Part Lay-out approval by the Chairman, Tamil Nadu Slum Clearance Board, No.5, Kamarajar Road, Chennai - 600 005, the first respondent herein, pertaining to the land comprised in Survey No.522/2 Part, Ambal Nagar Scheme, Jamin Pallavaram Village, Tambaram Taluk, Kancheepuram District within the limits of Pallavaram Municipality and quash the same.

For Petitioner : Mr. D. Ashok Kumar
For R2 :
For R1 & R3 : Mr. R. Shivakumar 1,2 & 3
For R4 : Mr. L.S.M. Hasan Fizal
For R5 : M/s.D.Muthukumaran
for M/s.Paul & Paul Advocates

O R D E R

The prayer sought for in the present writ petition is to quash the revised plan in planning permit No.3 of 2007 dated 25.04.2007 in MUDP-I, MUDP-II/TNUDP/TNSCB Part, Lay-out approval by the Chairman, Tamil Nadu Slum Clearance Board, No.5, Kamarajar Road, Chennai - 600 005, the first respondent herein, pertaining to the land comprised in Survey No.522/2 Part, Ambal Nagar Scheme, Jamin Pallavaram, Tambaram Taluk, Kancheepuram District.

2. According to the petitioner, the land in Survey No.522/2 part situated in Pallavaram Village, Tambaram Taluk measuring 1.20 hectares comprised of 117 plots had been allotted under a scheme known as Urban Land Development Scheme by the Government of Tamil Nadu as per G.O. Ms. No.246, Housing and Urban Land Development Project (Slum Improvement) dated 19.09.1998, which was also approved by the Madras Metropolitan Development Authority. The approved layout is now known as Ambal Nagar and it was allotted to various persons under the said scheme. Subsequently, in respect of Plot No.41, a lease cum sale agreement was executed between the petitioner and the Executive Engineer, Tamil Nadu Slum Clearance Board, Division No.5, Triplicane, Chennai - 600 005 during February 1997. As per the order of allotment, a total cost of Rs.2,706/- was payable by the petitioner out of which the petitioner paid a sum of Rs.271/- initially and the balance is payable in installments. It is stated that the entire cost of land has been paid by the petitioner and he had also put up a construction over the land allotted to him.

3. The grievance of the petitioner is that the fourth respondent attempted to construct a drainage channel on the Eastern side of his property. The proposed construction of drainage is adverse to the interest of the petitioner. The petitioner had sent a notice through his advocate besides filing a suit in O.S. SR No. 6406 of 2007 on the file of District Munsif, Alandur for Mandatory injunction to remove the drainage canal put up on the southern side of his property. It was also stated that the fourth respondent had put up the construction at the instigation of the fifth respondent. The petitioner also filed a Writ Petition in WP No. 26537 of 2007 and it was

admitted by this Court and an interim injunction was granted forbearing the fourth respondent from laying any road. During the hearing of WP No. 26537 of 2007, it was stated that a revised plan has been obtained by altering the features contained in the approved plan. According to the petitioner, without notice to the petitioner, who is the beneficiary of the original plan, it was revised and as per the revised plan, the plot numbers have been changed and a new land was shown measuring 10 feet width running North to South on the Eastern side of Plot Nos. 38, 39, 42 and 43 and on the other side of the said 10 feet road, only 3 plots are available. The revised plan ought to have been approved in consultation of the occupants of the plots and without hearing the occupants of the plots, including the petitioner, the revised plan ought not to have been approved.

4. During the course of hearing, the learned counsel for the first respondent brought to the notice of this Court the proceedings dated 02.01.2018 of the first respondent, wherein it was stated that as per the order dated 02.06.2017 passed by this Court in WP No. 11949 of 2017, a survey was conducted and the report of the Surveyor was obtained as per which, it was stated that the existing 6 feet road was inadequate to the traffic needs and therefore, with the consent of the occupants through the Ambal Nagar Residents Welfare Association, certain portions of the lands were obtained for expansion of the road and accordingly, the road was widened into 14 feet road. It was stated that the petitioner herein has also given his consent for taking over a portion of his land for formation of the road. It was stated that since there was a change in the physical features of the area, a revised plan was submitted and it was also approved by the second respondent-CMDA.

5. By relying on the above communication dated 02.01.2018 of the first respondent, the counsel for the first respondent and the learned counsel appearing for the respondents 2 and 3 would submit that earlier, the road was laid without CMDA permission, but subsequently, the layout was revised and the road was widened for the benefit of the occupiers of the layout. The users or owners of the land on both sides have given the land in their possession for the purpose of widening of the road. Having regard to the necessity, the CMDA approved the revised plan in planning permit No.3 of 2007 dated 25.04.2007 and passed necessary orders based on the sketches provided already. The area has also been surveyed and the land in favour of the petitioner herein was also taken over with his consent. Now, the road has been laid by the Municipality as per the revised plan and therefore, the learned counsel appearing for the respondents would submit that nothing survives for adjudication in this writ petition.

6. Having regard to the above submissions of the counsel for the respondents and considering the fact that the road has been laid, pursuant to the consent given by the petitioner himself and the original plan was also revised, this Court is of the view that nothing survives in the Writ petition for further adjudication. Hence, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

klr

To

1.The Chairman,
Tamil Nadu Slum Clearance Board,
Chepauk, Chennai - 600 005.

2.The Member Secretary, CMDA,
Thalamuthu Natarajan Maligai,
No.2, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

3.The Executive Engineer,
Tamil Nadu Slum Clearance Board,
Division No.V,
Teynampet, Chennai - 600 018.

4.The Commissioner,
Pallavaram Municipality,
Having its office at New Colony,
Chrompet, Chennai - 600 044.

+1cc to M/s.Paul & Paul, Advocate SR.No.48739

+1cc to Mr.PS.Ganesh, Advocate SR.No.48747

W.P.No.26798 of 2008

VSN II (CO)
GMY (21/12/2018)