

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.5922 of 2011

And

M.P.No.1 of 2011

R.Parameswari

... Petitioner

Vs.

The Commissioner,
Ambattur Municipality,
Ambattur, Chennai.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to forbear the respondent from interfering with the petitioner's right and enjoyment of the park earmarked in the layout plan or with the property situate at S.No.170/part, Padi village, Anna Nagar West Extension, Chennai.

For Petitioner : Mr.V.Raghavachari

For Respondent : Mr.S.Saravanan

O R D E R

The writ petition has been filed seeking issuance of Writ of Mandamus forbearing the respondent from interfering with the petitioner's right and enjoyment of the park earmarked in the layout plan or with the property situate at S.No.170/part, Padi village, Anna Nagar West Extension, Chennai.

2.The case of the petitioner is that the petitioner is the resident of Flat No.8, Block 48/8, erected on the land in S.No.170/part, Padi village, Anna Nagar West Extension, Chennai. The property originally belonged to one P.M.Vanaja, who got allotment from the Tamil Nadu Housing Board under a registered sale deed dated 23.02.1990. The said Vanaja in turn sold the property to one Srikantawamy for a valuable consideration. During his lifetime, the said Srikantawamy entered into a construction agreement along with other co-owners and the flat area was extended and flats were constructed in the name of 'Surya Apartments'. After his demise, the petitioner purchased

the property from his legal heirs on payment of sale price on 30.09.2008 vide Document no.3241 of 2008 on the file of the Sub-Registrar, Villivakkam.

3.It is the further case of the petitioner that as per the norms, certain areas were earmarked for common area namely, road, park, nursery school, playground, open space. According to the petitioner, she is enjoying the common area allocated for the benefit of the residents and the area allotted for common purpose is intended for the use of the occupants and the respondent Municipality has no right over the same. Since the respondent frequently interfere with the petitioner's possession and enjoyment of the common area, the present writ petition has been filed.

4.The learned counsel appearing for the petitioner would submit that the petitioner is entitled to enjoy the property along with the other inmates of the Colony.

5.Per contra, the learned counsel appearing for the respondent would submit that the property in S.No.170 part, Padi Village to an extent of about 2 grounds 850 sq.ft. was allotted for open space land for the purpose of public vide gift deed Document No.3111 of 2004. He would further submit that the erstwhile Ambattur Municipality had constructed compound wall by protecting the open space land which is meant for public and also left the additional space for road for all the four sides for the usage of public as well as residents. Hence, there is no grievance for the petitioner.

6.In view of the above, since the petitioner is not prevented from entering into the common area along with the general public, nothing survives for adjudication in this writ petition.

7.The writ petition is accordingly closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

The Commissioner,
Ambattur Municipality,
Ambattur, Chennai.

+1 cc to Mr.S.Saravanan, Advocate, S.R.No.66248

+1 cc to Mr.V.Raghavachari, Advocate, S.R.No.66140

W.P.No.5922 of 2011
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KK (CO)
SSM(28/08/2019)



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