

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.7181 of 2019 and

W.M.P.No.7902 of 2019

R.Bhoopalan

.. Petitioner

Vs.

1.The Regional Director,
Town and Country Planning,
Vellore Town,
Sathuvacheri, Vellore.

2.The Regional Director of Municipality
Administration,
Vellore Region, Sathuvacheri, Vellore.

3.The Regional Environmental Engineer,
Tamil Nadu Pollution Control Board,
Vellore Region, Vellore.

4.The Commissioner,
Arakkonam Municipality,
Arakkonam, Vellore District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of mandamus to direct the respondents to maintain the park space in S.No.287/2A, 2B, 3A & 3B then T.S.No.24 having an extent of 30450 sq.ft. and 31990 sq.ft. in Ratanchand Nagar, Arakkonam as per the approved layout sanctioned by the 1st respondent in DTCP No.1452/1991 as an park space after removing the illegal construction thereon.

For Petitioner : Mr.G.Jeremiah

For Respondents: Mr.S.N.Parthasarathi
Government Advocate (R1 & R2)
Mr.P.Srinivas (R4)

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAIWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of mandamus to direct the respondents to maintain the park space in S.No.287/2A, 2B, 3A & 3B then T.S.No.24 having an extent of 30450 sq.ft. and 31990 sq.ft. in Ratanchand Nagar, Arakkonam as per the approved layout sanctioned by the 1st respondent in DTCP No.1452/1991 as a park space after removing the illegal construction thereon.

2.It is the case of the petitioner that the 4th respondent appropriated the park area and attempted to establish a solid waste collection centre in the area earmarked as park. Further, the petitioner contended that the 4th respondent has appropriated one half of the park area by erecting an overhead tank and underground sump.

3.The 4th respondent filed a counter wherein it has been stated that the entire extent of the land measures 68,240 sq.ft. and a Micro Compost Center has been put up in an extent of 4,890 sq.ft. Further, the learned counsel for the 4th respondent submitted that the overhead tank has been constructed in an extent of 1,300 sq.ft. and the underground sump has been constructed approximately in an extent of 1,800 sq.ft. Therefore, it is clear that out of the extent of 68,240 sq.ft., an extent of 7,990 sq.ft. has been used by the 4th respondent for putting up overhead tank, underground sump and Micro Compost Center.

4.The learned counsel for the 4th respondent submitted that the park has not been notified as a park under the provisions of the Tamil Nadu Parks, Play-Fields and Open Spaces (Preservation and Regulation) Act, 1959. The learned counsel in support of his contention relied upon Section 3 of the Act.

5.Admittedly, the park has not been notified under the said Act. Even if the park is notified, then the authorities can utilize 20% of the land for public usage. In the case on hand, out of 68,240 sq.ft., the 4th respondent had utilized only 7,990 sq.ft., which is just about 10% of the entire extent. Even this restriction can be imposed only if the park is a notified park. Therefore, the contention raised by the petitioner cannot be accepted.

6.The learned counsel for the 4th respondent submitted that the 4th respondent would also allow the public to use the land above the underground water sump as a park.

7.The learned counsel for the petitioner submitted that the submission made by the learned counsel for the 4th respondent may be recorded.

8.In view of the same, except recording the submission made by the learned counsel for the 4th respondent to the effect that the land above the underground water sump will also be allowed to be used as a park, in other aspects, we are not agreeing with the contention of the petitioner.

9.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Regional Director,
Town and Country Planning,
Vellore Town,
Sathuvacheri, Vellore.
- 2.The Regional Director of Municipality
Administration,
Vellore Region, Sathuvacheri, Vellore.
- 3.The Regional Environmental Engineer,
Tamil Nadu Pollution Control Board,
Vellore Region, Vellore.
- 4.The Commissioner,
Arakkonam Municipality,
Arakkonam, Vellore District.

+1cc to Mr.G.Jeremiah, Advocate sr.76697
+1cc to Mr.P.Srinivas, Advocate sr.76796
+1cc to Government Pleader sr.77407

W.P.No.7181 of 2019 and
W.M.P.No.7902 of 2019

ev(co)
nr 15/10/2019