

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 13.08.2019

Pronounced on: 19.08.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.7745 of 2019
& W.M.P.Nos.19102, 19104, 11343 of 2019

V.Perumal,
S/o.Late M.Vendavarasi,
No.4/129, Nehru Street,
Pudupakkam, Thiruporur Taluk,
Kanchipuram District - 603 103.

... Petitioner

/versus/

1. The District Revenue Officer,
Kanchipuram District.
2. The Revenue Divisional Officer,
Chengalpet, Kanchipuram District.
3. The Tahsildar,
Taluk Office, Thiruporur,
Kanchipuram District.
4. The Director of Town & Country Planning,
Chengleput.
5. Mamallapuram Local Planning Authority,
Mamallapuram.
6. The Block Development Officer,
Tirupporur.
7. The Sub-Registrar,
Tirupporur.
8. Mr.Nazeem Sharif,
W/o.Nusrath Sharif,
No.90, Millers Road,
Kilpauk, Chennai - 600 010.
9. M/s.Isha Homes (India) Pvt.Ltd.,
Rep.By its Authorised Signatory,
Mr.N.Anbu Mani,

Old No.55, New No.74,
1st Avenue, Indira Nagar,
Adyar, Chennai - 600 020.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, to direct the 4th and 5th respondent to cancel the lay out approved No.18/2016 and Planning Permit No.22/2016 vide approved Letter No.1220/2015 dated 28.07.2016 issued to the 8th respondent for the purpose of construction of flats in respect of property bearing S.No.64/10B, 12, 13, 65/1, 2, 6, 8A, 8B & 9B of Pudupakkam Village, Tiruporur Panchayat Union, Tiruporur Taluk, Kancheepuram District and further to revoke and cancel the gift deed bearing No.4070/2016 registered at SRO, Thiruporur and pass orders.

For Petitioner	: Mr.T.N.Rajagopalan
For R1 to R5	: Mrs.P.Rajalakshmi, Additional Government Pleader
For R6	: Mr.D.Suriyanarayanan, Additional Government Pleader
For R7	: Mr.T.M.Pappiah, Additional Government Pleader
For R8	: Mr.Nithyeash
For R9	: Mr.S.Rajasekar

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondents.

2. The petitioner herein claims right to an extent of 16 cents land in Survey No.65/8A, which form part of the larger extent of lay out promoted by the 9th respondent. The petitioner herein has preferred this Writ Petition seeking Mandamus that the lay out approval granted by the 4th respondent/Director of Town & Country Planning and 5th respondent/Mamallapuram Local Planning Authority, in favour of the 9th respondent vide Permit No.22 of 2016, dated 28.07.2016, shall be revoked and cancel the gift deed bearing Document No.4070 of 2016 registered at SRO, Thirupour, since includes the 16 cents of land at S.No.65/8A, owned to him.

3. In the counter, the 9th respondent had disputed the claim of the petitioner over his right upon 16 cents of land in S.No.65/8A. However, in order to avoid litigation, he has

submitted the revised plan for approval and same has been approved by the SRO, Thiruporur, on 31.07.2019, wherein, the disputed area falling under S.No.65/8A has been excluded.

4. The Learned Counsel appearing for the petitioner would submit that, after perusing the counter and the revised plan, had satisfied that the land falling under S.No.65/8A does not fall within the revised approved lay out and therefore, he has no grievance in the revised plan approved by the SRO, Thiruporur, in favour of the 9th respondent. However, he is concern about the gift deed executed in favour of the Local Authority, which includes the disputed portion under S.No.65/8A.

5. As far as, this portion is concerned, the right over the property has to be decided by the Revenue Authorities and the competent Civil Court. As of now, to avoid complication and further litigation, the 9th respondent has excluded that portion from the lay out and therefore, the prayer in the Writ Petition in so far as this relief is concerned, does not survives. Regarding the gift deed, if the dispute between the petitioner and the vendor of the 9th respondent ends in favour of the petitioner, then automatically the inclusion of S.No.65/8A in the gift deed will become non est in law and therefore, this issue cannot be decided in this Writ Petition.

6. Accordingly, the Writ Petition is disposed of. Interim order already granted by this Court are vacated. No costs. Consequently, the Connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To

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Chengleput.

5. Mamallapuram Local Planning Authority,
Mamallapuram.

6. The Block Development Officer,
Tirupporur.

7. The Sub-Registrar,
Tirupporur.

+2 CCS to Mr.T.M.Rajagopalan, Advocate sr 70148.

+1 CC to Mr.S.Rajasekar, Advocate sr 70171.

+1 CC to Govt. Pleader sr 71218.

Writ Petition No.7745 of 2019

PP(CO)
SP(28/08/2019)