

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 21.10.2019

PRONOUNCED ON: 04.11.2019

CORAM::

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition Nos.26047, 26053 & 26056 of 2019
& W.M.P.Nos.25437, 25438, 25442 of 2019

P.Paul Petrock,
S/o.Paul Lurdhusamy,
No.9, Defence Colony,
Gopalapuram, Chennai - 600 072.

... Petitioner
in W.P.No.26047 of 2019

R.Muthulakshmi,
W/o.S.Rajendran,
No.7, Defence Colony,
Gopalapuram, Chennai - 600 072.

... Petitioner
in W.P.No.26053 of 2019

K.Murugan,
S/o.S.Karuppasamy,
No.7, Defence Colony,
Gopalapuram, Chennai - 600 072

... Petitioner
in W.P.No.26056 of 2019

/versus/

1. The Collector,
Tiruvallur District.
 2. The Commissioner,
Avadi Corporation, Avadi.
 3. The Regional Deputy Tahsildar,
Ponnamallee Region,
Tiruvallur District.
 4. The Correspondent,
Sri Ramakrishna Matriculation Higher Secondary School,
No.53, South Bazar, Thandurai,
Pattabiram, Chennai - 600 072
- ... Respondents
in all cases.

Prayer in W.P.Nos.26047, 26053 & 26056 of 2019: Writ Petitions are filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, to direct the 2nd respondent to lay road at Sr.No.145/4, 7 & 8 of No.6, Sekkadu Village, Avadi Township as per the layout sanctioned by the 2nd respondent.

For Petitioner : Mr.S.Ilamvaludhi
in W.P.Nos.26047 & 26053 of 2019

For Petitioner : Mr.V.Karthikeyan
in W.P.No.26056 of 2019

For R1 & R3 : Mr.N.Inbanathan
in all cases Additional Government Pleader

For R2 : Mr.P.Srinivas
in all cases

For R4 : Mr.P.K.Sabapathi
in all cases

C O M M O N O R D E R

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

2. Contention of the Petitioners in brief:

W.P.No.26047 of 2019:

The petitioner/Mr.P.Paul Petrock, claims that, he purchased Plot No.9, Defence colony, Gopalapuram, situated at Sorancherry Madura Sekkadu Village, from one C.Muthuraj by a registered sale deed duly registered in the office of Sub-Registrar, Kundrathur, on 02.12.2009. He has constructed a house in the said property and enjoying the same since 2009. It is a corner plot lying at the dead end of the street.

W.P.No.26053 of 2019:

The petitioner/Mrs. R.Muthulakshmi claims that, she purchased Plot No.7, Defence Colony, Gopalapuram, situated at Sorancherry Madura Sekkadu Village from one M.Sankaralingam by a registered sale deed duly registered in the Office of the Sub-Registrar, Kundrathur on 23.02.2005. She has constructed a house in the said plot and enjoying the same since 2005.

W.P.No.26056 of 2019:

The petitioner/K.Murugan claims that, his sister purchased Plot No.7, to an extent of 2379 sq.ft at Defence Colony, Gopalapuram situated at Sorancherry Madura Serkkadu Village from one M.Sankaralingam by a registered sale deed duly registered at Sub-Registrar Office at Kundrathur on 23.02.2005. Subsequently, his sister settled 1052 ½ sq.ft of land vide settlement deed duly registered on 08.07.2011. He has constructed a house in his portion and enjoying the same without any interruption since 2011.

3. The common grievance of the petitioners herein is that, they have constructed the house with Panchayat permission and holding valid Patta. The plots of the layout covers Survey Nos.145/4, 145/7 and 145/8 of Serkkadu Village. The North of the layout is a 20 feet road which is used by the petitioners and other plot owners for reaching the main road. While so, the 4th respondent has dumped full sand and mud to lay a road to his property in Plot No.4 by obstructing their entry and exit to their respective houses from the main road. Presently, the 4th respondent is laying road as if, he is the owner of the Plot Nos.6, 13 and 15 to 24. The 4th respondent had taken law in his hands and atrociously curtailing the rights of the other plot owners in that street. The 4th respondent/School is 2 km away from the plots. He is trying to convert the land into a play ground for the School and lying road for the play ground.

4. The 2nd respondent, who is the Commissioner of Avadi Municipal Corporation on the direction of this Court, has filed status report and for the 3rd respondent the Regional Deputy Tahsildar, Avadi has filed common counter affidavit for all the three writ petitions.

5. According to the status report of the 2nd respondent and the counter affidavit of the 3rd respondent, the layout which the petitioners have constructed houses falls in S.Nos.145/4, 7 and 8 of Sekkadu Village, Avadi Taluk, Tiruvallur District. As per revenue records S.No.145/8 (0.08.5 ares) is classified as "Eri Ulvoy" which is purely a water body. S.No. 145/4 (28.5 ares) and S.No. 147/7 (0.24.5 ares) have been classified as "Ryotwari Manavari" which is private patta land in the name of Mari Naicker (patta No. 334). The layout is not an approved layout. The Street Registers maintained by the respondents also do not contain the streets in the layout as claimed by the petitioners. On enquiry, the 2nd respondent has found that the 4th respondent has purchased land in S.No.145/4 from one Annammal W/o.Kuppusamy Naicker. The said Kuppusamy Naicker is owner of the land in S.No.245/7. The land of the 4th respondent is distinct from the land in which the plots of the petitioners located. The layout sketch relied by the petitioners is not an approved layout, unless the layout is approved either by the respondents or by the Town Planning Authorities and the streets in the layout is gifted to the local body, streets will not come under the jurisdiction and control of the respondents.

6. The 4th respondent/School, against whom the allegation of depriving the right of entry and exit made has filed counter affidavit stating that, the Writ Petition is not maintainable and it is deserve to be dismissed inlimine. The 4th respondent claims that, he along with his wife and son has purchased 70 cents of land at S.No. 145/4 at Sekkadu Village from Annammal W/o.Kuppusamy Naicker vide sale deeds dated 15.07.2011. The property originally owned by one Mari Naicker.

After the lifetime of Mari Naicker, the property devolved on his son Kuppusamy Naicker. The said Kuppusamy Naicker settled the property in favour of his wife Annammal vide settlement deed dated 14.07.2008. The property in extent of 70 cents was purchased for the 4th respondent to provide playground for the Matriculation School. In the year 2013, one L.Thirunavukarasu, Power Agent of Sai Jayakanth Barathi tried to interfere their peaceful possession of the property. They filed a Civil Suit before the Principal District Munsif Court, Poonamallee in O.S.No.507 of 2013. The said suit for injunction was decreed in favour of them on 08.11.2018. The Civil Court has given a clear finding that the 4th respondent and his family members are the absolute owners of the 70 cents of land in S.No.145/4. The petitioner and others gave a complaint at Pattabiram Police Station. On production of all the documents, they dropped the complaint as bereft of bonafide. The petitioners, though fully aware of the fact that the documents and Court decree are in favour of the 4th respondent, suppressing the same has filed these Writ Petitions with malafide intention to harass.

7. The averment of the petitioners is that, the layout in S.Nos.145/4, 7 and 8 at Sekkadu Village were plotted as Avadi Township Defence Colony itself is false and incorrect. There is no approved layout by the appropriate authorities. In and around their land, they have fenced to protect their property from trespassers and anti-social elements. They do not own any plot in the said layout. The residences of the petitioners are in S.No.145/7 and they have street to have ingress and egress to their respective house.

8. After considering the rival submissions and hearing the Learned Counsels for the respective parties, this Court arrives at following conclusion:-

9. From the status report of the Commissioner, Avadi Corporation and the counter affidavits of the other respondents, I find that, the petitioners have purchased residential plots in unapproved layout in S.No.145/7 and had constructed buildings upon it. Whereas, the 4th respondent has purchased 70 cents of land in S.No.145/4 which is different from the Survey Numbers of the land purchased by the petitioners. The land purchased by the 4th respondent is adjacent to the plots of the unapproved layout. In the said circumstances, the petitioners cannot prevent the 4th respondent from utilising their property in the manner they like, which they have lawfully purchased from the lawful owner.

10. The specific allegation of the petitioners that, by constructing road, their access to the residences will get curtailed is denied by the Commissioner in his status report. The report of the Commissioner reveals that, the streets that

are claimed by the petitioners to be running from 'EAST' to 'WEST' are already connected to a road by name Gopalapuram 1st Main Road, which is on the Western side. The petitioners have their access to the said public thoroughfare and they are in no manner prevented from reaching their property from the public roads.

11. For the above said reasons, this Court holds that the Writ Petitions deserves to be dismissed as devoid of merits. Accordingly, the W.P.Nos.26047, 26053 and 26056 of 2019 are dismissed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

04.11.2019

After pronouncing the judgment, the Learned Counsel for the petitioner submits that the petitioner may be given liberty to seek relief before the competent Civil Court and any observation made by this Court shall not influence the Civil Court. If the petitioner advised to approach the Civil Court, they are at liberty to do so. In such case, the Civil Court shall decide the matter independently without being influenced by any observation made in this order.

bsm

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Collector,
Tiruvallur District.
2. The Commissioner,
Avadi Corporation, Avadi.
3. The Regional Deputy Tahsildar,
Ponnamallee Region, Tiruvallur District.

+1cc to Mr.P.K.Sabapathi, Advocate, SR.No.91341
+1cc to Mr.P.Srinivas, Advocate, SR.No.91401
+1cc to the Govt.Pleader, Vide Sr.No.91530

Writ Petition Nos.26047, 26053 &
26056 of 2019

Kak(20/11/2019)