

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2019

CORAM :

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

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.34299 of 2018 and
W.M.P.Nos. 39874 & 39878 of 2018 and WMP 7061 of 2019

Margaret Vatsala ... Petitioner

v.

- 1.The Collector,
Kancheepuram District, Kancheepuram
- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai
3. The Commissioner,
Pallavaram Municipality,
Chrompet, Chennai - 600 044.
- 4.Town Planning Officer,
Pallavaram Municipality,
Chrompet, Chennai - 600 044.
- 5.JBM Shelters Pvt. Limited
JRM Towers, No.59, GST Road,
Pallavaram, Chennai - 600 043.
- 6.The Tahsildar,
Pallavaram Taluk Office,
Chrompet, Chennai-44.

(R6 impleaded vide Court order dated
30/4/19 made in WMP 13105 of 2019 in WP 34299/18)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, calling upon the records pertaining to the planning permit No 431/2017 issued by the 3rd respondent dated 27-10-2017 to the

5th respondent, quash the same and consequently direct the 2nd and 3rd respondents to not to permit the 5th respondent without the side setbacks as per the Development regulations for the Chennai Metropolitan Area.

For Petitioners: Mrs. D.Geetha

For Respondents: Mr.S.N.Parthasarathy

Government Advocate - for R1
Mr.S.Thiruvengadam - for R2
Mr.P.Srinivas - for R3 & R4
Mrs.Chitra Sampath, Senior Counsel
for Mr.B.Vijay - for R5

O R D E R

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

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the planning permit dated 27.10.2017 issued by the 3rd respondent to the 5th respondent, to quash the same and consequently direct the respondents 2 and 3 to not to permit the 5th respondent without the side setbacks as per the Development regulations for the Chennai Metropolitan Area.

2. It is the case of the petitioner that the 5th respondent has put up construction contrary to the planning permission issued by the 3rd respondent by not leaving side set back as per the development regulations.

3. The 3rd respondent, in his counter, has stated that as per the latest development rules, if the width of the plot is upto 9 meters (30 feet) in the primary residential zone, it is not necessary to provide side set back on both sides of the building and it is sufficient to provide side set back on any one side and the other side may be used for construction. Further, the 3rd respondent has stated that in the case on hand, the width of the plot is 9 meters (30 feet) as per the sale deed, therefore, it is sufficient to provide side set back on one side. The 5th respondent has provided side set back on the northern side of the building apart from providing one feet side set back on the petitioner's property land.

4. In paragraph 7 of the counter filed by the 3rd respondent, it has been stated that the planning permission was

issued by following the rules and regulations and there is no illegality in the same and that the 5th respondent is also constructing the building as per the sanctioned planning permission without any deviation.

5. It is pertinent to note that in W.P.No.14204 of 2018, which was filed challenging the notice issued by the 3rd respondent, the Division Bench of this Court, by order dated 13.06.2018, directed the 3rd respondent to cause inspection on the property after giving notices to the parties concerned. Thereafter, notices were issued to the writ petitioner and the 5th respondent to be present on 06.08.2018 on the disputed land and on that day, the 5th respondent was present in the site and the petitioner failed to be present at the time of inspection. The 3rd respondent has also stated that at the time of inspection it was found that the deviations pointed out in the notice issued to the 5th respondent were rectified by the 5th respondent. Further, at the request of the 3rd respondent, the Tahsildar, Pallavaram has issued a report with regard to the land in dispute and only on the basis of the said report of the Tahsildar, the 5th respondent was permitted to put up construction.

6. In view of the categorical statement made by the 3rd respondent to the effect that the 5th respondent has not violated the planning permission and put up construction unauthorizedly, the relief sought for in the Writ Petition cannot be granted. Accordingly, the Writ Petition is dismissed. The learned counsel appearing for the petitioner submitted that liberty may be given to the petitioner to challenge the impugned planning permission dated 27.10.2017 by way of an appeal before the Appellate Authority. In view of the submission made by the learned counsel appearing for the petitioner, we only say that it is open to the petitioner to challenge the impugned planning permission, in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Rj

To

- 1.The Collector,
Kancheepuram District, Kancheepuram.
- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai.
3. The Commissioner,
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Chrompet, Chennai - 600 044.
- 4.Town Planning Officer,
Pallavaram Municipality,
Chrompet, Chennai - 600 044.
- 5.The Tahsildar,
Pallavaram Taluk Office,
Chrompet, Chennai-44.

+1cc to the Government Pleader Sr.55950
+1cc to M/s.D.Geetha, Advocate Sr.55032
+1cc to Mr.S.Thiruvengadam, Advocate Sr.55257
+1cc to Mr.P.Srinivas, Advocate Sr.55247
+2cc to Mr.B.Vijay, Advocate Sr.55497

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srg 30/07/2019

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