

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2020

CORAM:

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.20476 of 2014

V.Bakthawatchalam

.. Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep. By its Secretary,
Housing and Urban Development,
Fort St. George, Chennai - 9.
- 2.The Director of Town and Country Planning,
807, Anna Salai, Chennai - 2.
- 3.Mamallapuram Local Planning Authority,
Rep. By its Member Secretary,
Chengalpet.
- 4.The Executive Officer,
Thiruporur Special Panchayat,
Thiruporur.
- 5.R.P.Tharmalingam
- 6.The Sub-Registrar,
Thiruporur, Chengalpet.
- 7.The Superintendent of Police,
Kanchipuram District.
- 8.M/s.SARE JUBILEE SHELTERS PRIVATE LTD.,
Rep. By its Directors, namely,
Mr.Sunil Agarwal and Mr.O.P.Ahuja,
1379, I Block, 6th Street,
Vallalarkudiyiruppu,
Anna Nagar West,
Chennai - 40.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records available on the file of the respondents 2, 3 & 4 in respect of the layout plan approved by the respondents 2, 3 and 4 respectively in Ma.Va/DTCP No.30/2006, dated 22.02.2006 and in Lr.No.424/2005, dated 20.06.2006 and quash the same insofar as including in the impugned layout plan the property of the petitioner situated in Survey No.221 of Thiruporur Special Village Panchayat, Chengalpat Taluk and Kanchipuram District and further to direct any appropriate police authority or officer as may be fixed by this Court to register an FIR and proceed further against the fifth respondent and other officials of the respondents involved in granting the impugned layout plan approved by the respondents 2 to 4 respectively in Ma.Va/DTCP No.30/2006, dated 22.02.2006; and in Lr.No.424/2005, dated 20.06.2006 and against the officials for refusing to exercise their power to stop these illegalities even after the same were brought to their knowledge.

For petitioner : Mr.N.Subramaniam
For R1, R2, R6&R7 : Mr.M.D.Ilayaraja, GA
For R3& R4 : Mr.P.V.Selvakumar, AGP
For R5 : Mr.M.Vivekanandan
For R8 : No Appearance

ORDER

Heard Mr.N.Subramaniam, learned counsel for the petitioner, Mr.M.D.Ilayaraja, learned Government Advocate for the respondents 1, 2, 6 and 7 and Mr.P.V.Selvakumar, learned Additional Government Pleader for the fifth respondent.

2. The petitioner has filed this writ petition seeking for issuance of a writ of certiorarified mandamus to call for the records relating to the proceedings of the respondents 2, 3 and 4 in respect of the layout plan approved by them vide proceedings dated 22.02.2006 and the consequential communication dated 20.06.2006 and quash the same insofar as it includes the property owned by the petitioner in Survey No.221 of Thiruporur Special Village Panchayat, Chengalpet Taluk, Kanchipuram District.

3. The respondents 5 and 8 are the promoters of layout measuring total extent of 155.30 acres. The petitioner's case is that the land owned by him comprised in Survey No.221 measuring an extent of 2.03 hectares, equivalent to 5.02 acres, has been illegally and unauthorizedly utilized to form part of the layout, in which, an extent of 94,500 sq.ft. of land has been shown as reserved for Park and an extent of 14,400 sq.ft. has been earmarked as Primary Health Centre and a road has also been formed.

4. The petitioner's contention is that Survey No.221 could not have been included in the approved layout, because, it is the property exclusively owned and possessed by the petitioner. In this regard, the petitioner has made several representations and ultimately, it was found that the petitioner's signature has been forged and the responsibility is yet to be fixed as the criminal proceedings were initiated.

5. In the meantime, the matter was referred for mediation, whereby consensus was arrived at by the petitioner and the respondents 5 and 8 and the settlement was recorded by executing Memorandum of Understanding dated 03.08.2017. By virtue of Memorandum of Understanding, the entire extent of the petitioner's property has been removed from the approved layout subject to the condition that the petitioner should provide a road in his property. The terms and conditions were also signed between the parties. Therefore, it may not be necessary for the Court to well deep into the terms and conditions which have been imposed in the Memorandum of Understanding. Thus, the Memorandum of Understanding takes care of the petitioner's interest and his property has been cleared and saved, ofcourse, the petitioner has been benevolent to give certain extent of property for formation of road, so that the purchaser of other plots would be benefited. Though the petitioner is fully satisfied with the arrangement, the concern of the petitioner is that the facilities, namely, Park and Primary Health Centre, have to be provided in the approved layout. In this regard, the parties have also agreed upon to consider and provide this facility.

6. In the light of the above, there will be a direction to the respondents 2 and 3 to direct the respondents 5 and 8 to provide sufficient place for Park and for housing Primary Health Centre in the layout area and this shall be taken up effectively so that the public purpose is served. In this regard, the respondents 2 and 3 are directed to issue a notice to the respondents 5 and 8 and pass necessary orders within a period of six months from the date of receipt of a copy of this

order. With this direction, the writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

rkm

To

- 1.The Secretary,
Housing and Urban Development,
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Rep. By its Member Secretary,
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Thiruporur Special Panchayat,
Thiruporur.
- 5.The Sub-Registrar,
Thiruporur, Chengalpet.
- 6.The Superintendent of Police,
Kanchipuram District.

+1cc to Mr.N.Subramaniyan, Advocate SR.6148
+1cc to Mr.P.V.Selvakumar, Advocate SR.6080
+1cc to Mr.M.Vivekanandan, Advocate SR.6065
+1cc to the Government Pleader SR.6694

W.P.No.20476 of 2014

GMR (CO)
CB (24/02/2020)

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