

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.33594 of 2018

Girish P K

... Petitioner

Vs

1. Chennai Metropolitan Development Authority
Represented by Member Secretary
Thalamuthu Natrajan Maligai,
Chennai - 600 008.
2. The Secretary to Government
Transport Department
Government of Tamil Nadu
Secretariat, Fort St. George
Chennai - 600 009.
3. The District Collector
Kanchipuram District
Kanchipuram. ... Respondents

PRAYER : Writ Petition filed under 226 of the Constitution of India to issue a Writ of Mandamus or other orders in the nature of Writ directing the respondents to re-classify the land situated at EVP Township, Tharapakkam, Chennai - 600096 from the status of "Institutional Zone" to "Residential Zone" in accordance with the G.O.(Ms)No. 14 dated 30.01.2014.

For Petitioner : Mr. S.Rajasekar

For 1st
Respondent

Mr.Karthik Rajan
Standing Counsel

: Mr.G.K.Muthukumar
Special Government Pleader
RR 2 & 3

For Petitioner : Mr. S.Rajasekar

ORDER

(Order of the Court was made by M.M.SUNDRESH, J)

The petitioner has come forward to file the Public Interest Litigation seeking directions against the respondents to re-classify the land situated at EVP Township, Tharapakkam, Chennai - 600 096 from the status of "Institutional Zone" to "Residential Zone" in accordance with G.O.(Ms.)No. 14 dated 30.01.2014.

2. The sum and substance of the grievance of the petitioner is that notwithstanding the representations made over the years for reclassification, the respondents are not actively considering the request made by the petitioner, though the same has been done in respect of similarly placed lands between 2015 and 2017.

2. In the counter affidavit filed by the first respondent, the following statement has been made:-

"11. The above subject was placed before the Technical Committee meeting held on 20.12.2018. The Technical Committee recommended as follows:

"The Technical Committee discussed the subject in detail. The committee noted that the de-notified areas in Tharapakkam, Geugambakkam, Kolappakkam and Manapakkam which are lying on the Northern Side of Adayar River are prone to flooding as per the data furnished by PWD. It was noticed that entire north of Adyar river may be getting drained through these areas and development in these areas may cause flooding in the upstream. Any new development will block the drainage and cause severe flooding in the area.

Therefore, the Committee decided to address the PWD with a request to carry out a detailed study about whether development in this area will cause flooding in the upstream and offer remarks on the permissibility of developments in the de-notified areas in these villages including flood mitigation measures to be taken during development."

12. As detailed study is yet to be taken and lot of individuals are representing for assigning land use for the de-notified areas and also the Hon'ble High Court of Madras in W.P.No. 27803 of 2017 & W.M.P.No. 29789 of 2017 dated 19.01.2018 has directed to consider the representation of the petitioner dated 28.08.2017 and pass appropriate orders on merits and in accordance with law, within a period of one month after hearing the petitioner, the subject was again placed before the Technical Committee Meeting held on 14.06.2019. The recommendations of the Technical Committee are given below:

"The Technical Committee discussed the subject in detail. After detailed discussions the Committee recommended to provide 500 meters as buffer zone from the boundary (as per PWD records) of the Adyar River and assign Residential Land Use for the lands beyond 500m subject to the following conditions:

- a). Any new construction shall be made with Stilt Floor which can be used for Car/Two wheeler parking and as storage space.
- b) Meter boxes for EB supply/meter room shall be placed in the floor above Stilt Floor.
- c) Building shall be designed for flood resistance and resilient construction."

13. Meanwhile, the applications received in CMDA for reclassification of land use from Institutional Use Zone (covered under the de-notified Area from Airport Expansion) into other use Zones were examined and based on the NOC's obtained from the Airports Authority of India and PWD (where the site lies close to water body). The following reclassifications are approved in Thrapakkam village as detailed below:

Sl.No.	Survey No.	Land Use Reclassification From/To	Authority Resolution No. and Date	Tamil Nadu Government Gazette date
1.	12, 13/1, 2 14, 15/1, 2 & 19	Institutional/Primary Residential	29/2015, 18.03.2015	15.07.2015

Sl.No.	Survey No.	Land Use Reclassification From/To	Authority Resolution No. and Date	Tamil Nadu Government Gazette date
2.	28, 29 & 31/1	Institutional/Primary Residential	41/2017, 21.04.2017	14.06.2017
3	32/2	Institutional/Primary Residential	46/2017, 21.04.2017	14/06.2017

"

14. The recommendations of the Technical Committee meeting held on 14.06.2019 has to be placed before the Authority for suitable decision.

15. Now this Respondent proceeds to answer the various allegations contained in the affidavit filed in support of the Writ Petition parawise.

16. In so far as the allegations contained in paragraph 1, it is submitted that though the petitioner states that he owns a plot in EVP Township in Tharapakkam Village. He has not mentioned the details of Survey Number to verify the location of the plot in Tharapakkam Village and to ascertain whether his plot falls under the denotified area of airport expansion by the Airports Authority of India.

17. As far as the allegations contained in paragraph 2, the petitioner is put to strict proof of the same.

18. With regard to the allegations contained in paragraphs 3 to 13 and Grounds (a) to (k), it is submitted that the main contention of the petitioner is that in accordance with the G.O.Ms.No.14, Transport Department, dated 30.01.2014, the reclassification of the lands denotified by the Airports Authority of India from the proposed airport expansion boundary from Institutional Use Zone to Residential Use Zone is not carried out by CMDA in the Second Master Plan. The contentions of the petitioner are not correct as CMDA is pursuing necessary action for reclassifying the lands denotified from airport expansion as detailed in the preceding paragraphs of this affidavit and the process is likely to take further six months."

3. From the above, we could see that the Technical Committee has passed recommendations on 14.06.2019. Based on the said recommendations, a decision has to be taken by

the first respondent. However, in paragraph 18 referred to above, it has been stated that it would take six more months to reclassify the land as requested by the petitioner.

4. Now, more than three months have elapsed, but there is no progress at all. In such view of the matter, we direct the first respondent to take a decision based on the recommendations of the Technical Committee dated 14.06.2019 in the subject matter within a period of four months from the date of receipt of a copy of this order.

5. With the above said direction this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsg

To

1. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natrajan Maligai,
Chennai - 600 008.
2. The Secretary to Government
Transport Department
Government of Tamil Nadu
Secretariat, Fort St. George
Chennai - 600 009.
3. The District Collector
Kanchipuram District
Kanchipuram

+1cc to Mr.Karthik Rajan, Advocate, S.R.No.20826

+1cc to Mr.S.Rajasekar, Advocate, S.R.No.20190

+1cc to the Government Pleader, S.R.No.20658

W.P.No.33594 of 2018

(CO)

CB(28/07/2020)