

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2021

CORAM

THE HON'BLE MR.JUSTICE B. PUGALENDHI

WP No.3326 of 2020
and WMP.Nos.3859, 3860 & 3898 of 2020

K. Manjula

... Petitioner

Vs.

1. Chennai Metropolitan Development Authority
Rep.by its Member Secretary,
"Thalamuthu-Natarajan Maaligai"
No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.
2. Corporation of Chennai
Planning Department
Zone No.15, Zonal Office,
Sholinganallur, Chennai.
3. M/s.Emerald Haven Town Country Private Limited,
Rep.by its Director,
Having Office at Jayalakshmi Estates,
No.29, Haddows Road,
Nungambakkam, Chennai 600 006.Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent pertaining to approval of plan in PPD/LO/No.82/2019 dated 29.07.2019 and quash the same to the extent of not providing Public Road access to the petitioner's land in S.No.70/6C1, 70/6C2 and 70/6C3 at Karapakkam Village, Sholinganallur Taluk, Chennai and consequently direct the respondents to provide public road access having width of not less than 7.2 mtrs through Plot Nos.44 to 51 and Plot No.100, 101 in S.No.70/6A, 6B and 70/5C in the layout of the third respondent at Karapakkam Village, Sholinganallur Taluk within Chennai Corporation Limits to the petitioner's land.

For Petitioner : Mr.J.Ravikumar
For Respondents : Mrs.Veena Suresh for R1
Mr.Karthika Ashok for R2

M/s.Sathish Parasaram
Senior Counsel for
Mr.Parthasarathy for R3

ORDER

This writ petition is filed challenging the layout approval granted by the first respondent in PPD/LO/No.82/2019 dated 29.07.2019 in favour of the layout proposal made by the third respondent denying the access to this petitioner's property by the proposed layout. The petitioner is having agricultural land measuring an extent of 15 cents in S.No.70/6C at Karapakkam Village, Sholinganallur Taluk, Kancheepuram district. Adjacent to that property, the third respondent has developed a lay out in S.No.62/10C, 65/2, 3A, 3B, 3C, 66/1B, 67/1,2, 86/1,2, 69/2A, 3A1, 3A2B, 3B1, 3B2B, 4A, 4B, 5, 70/1C1, 2B1, 3A, 3B, 3C, 4A, 4B, 4C, 4D, 5A, 5B1, 5B2, 5C, 6A, 6B, 10A2, 71/1A, 1B, 1C, 2, 3A, 3B, 72/1, 2, 3A, 3B, 3C, 4,5,6, 73/3A, 3B,3C, 4, 5A, 5B,6, 76/1B, 2A, 2B, 77/1, 2,3,4, 78/1A, 1B, 1C, 2A, 2B, 79/1A, 1B, 2, 80/1, 2, 3A, 82/1, 2, 3A2, 3B, 83/1A1, 1A2, 1A3, 1B1, 1B2, 1C1, 1C2, 1D, 2A1, 2A2, 2B1,2B2, 2B3, 2C, 2D1, 2D2B, 3B2, 84/6A3B, 6B AND 86/6C2 and also obtained an approval for the layout. This layout is surrounded by the petitioner's land on all the sides and thereby access to the petitioner's land has been obstructed and therefore challenging the same the petitioner has filed this writ petition.

2. In response to this writ petition, Mr.Sathish Parasaram, learned Senior Counsel appearing for the third respondent submitted that there are other pathway available to this petitioner and even otherwise the third respondent is also willing to give a pathway in their layout through the unused land allotted for public purpose. This land in plot No.3 according to the learned Senior Counsel, has been allotted for a public purpose for any requirement of a department in the future. This land is allotted in addition to the lands allotted for public purpose for anticipating requirement. If any department intends to establish any infrastructure in the public purpose has to intimate the promoter within one year and there was no request for his land from any department within the stipulated time. Therefore there is no impediment to the third respondent to provide access through this plot No.3 from their layout.

3. The learned counsel for the petitioner has insisted to convey this land to the local authority in order to ensure that a proper road is laid in the said land which is proposed to be given by the third respondent so that there will be a permanent solution for his access to the property.

4. The learned Senior Counsel for the third respondent opposed for this proposal and stated that he has advised his client to file an affidavit to that effect ensuring his access to the petitioner to her land in S.No.70/6C. Accordingly the third respondent has also filed an undertaking affidavit as follows:-

" 3. The 3rd respondent submits that it had earlier filed an affidavit dated 17.01.2021 wherein the third respondent offered access to the petitioner's property through the public purpose plot No.III (owned by the third respondent) adjoining the petitioner's property as mentioned in the annexed sketch. The third respondent submits that after filing the said affidavit, the matter was listed on 18.01.2021. The third respondent submits that in order to give a quietus to the matter, the third respondent is offering said access to the petitioner's lands for the use of the petitioner and hence the present writ petition may be disposed off after recording the same.

4. The third respondent submits that there is no statutory bar to grant access to the petitioner's property through the portion of public purpose plot".

6. In view of the affidavit filed by the third respondent stating that the petitioner would be provided access to her land at S.No.70/6C through the third respondent's plot No.III, allotted for public purpose but not utilised by any department, this writ petition is disposed of with a direction to the third respondent to ensure that the place which is offered by them is maintained as a pathway and the access is ensured to the petitioner. No costs. Consequently connected miscellaneous petitions are also closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

dpq

To

1.The Member Secretary,
Chennai Metropolitan Development Authority
"Thalamuthu-Natarajan Maaligai"
No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.

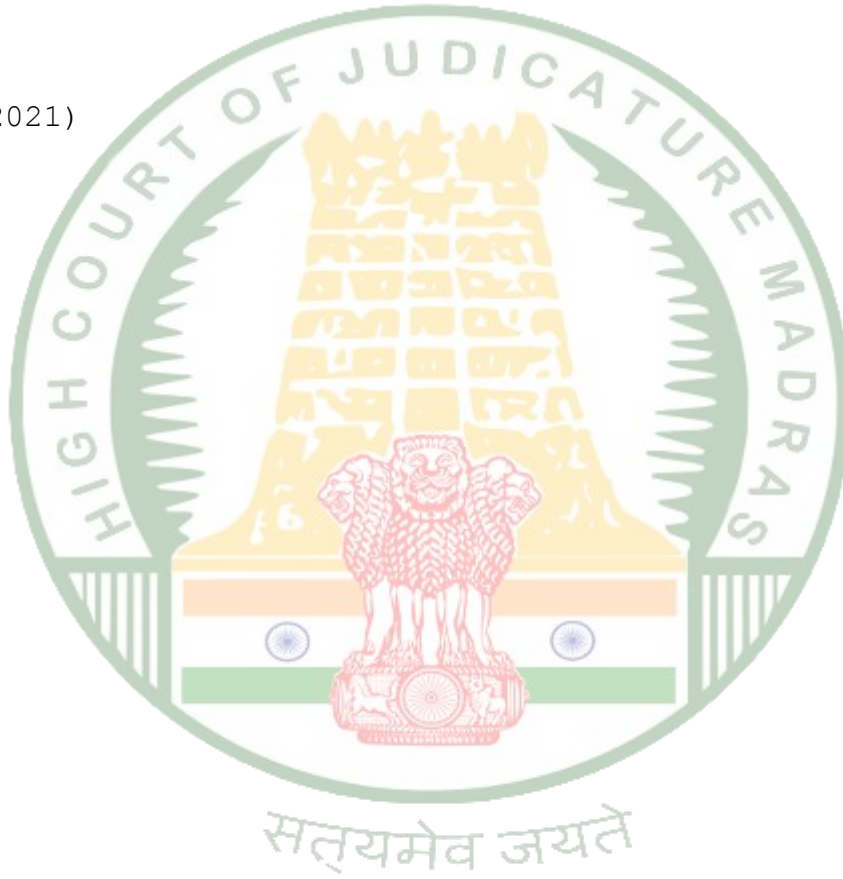
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2. The Corporation of Chennai
Planning Department
Zone No.15, Zonal Office,
Sholinganallur, Chennai.

+3 Ccs to Mr.J.Ravikumar, Advocate sr 7748.

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KV(CO)
SP(04/03/2021)



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