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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.13677 of 2019 and W.M.P.No.13731 of 2019

Tranquil Garden Plot Owners Association  
Rep. by its President H103/ 1  
Suksagar Apats III Seaward Road  
Valmiki Nagar, Thiruvanmiyur Chennai - 600041.

... Petitioner

-Vs-

- 1 The State of Tamil Nadu  
Rep. by its Secretary to Government  
Department of Rural Development Secretariat  
Fort St. George Chennai - 600009
- 2 The District Collector  
Kancheepuram and District
- 3 The Thasildar  
Tiruporur Tiruporur Taluk  
Kancheepuram District
- 4 The Director of Town and Country Planning  
Directorate of Town and Country Planning  
807 Anna Salai Chennai - 2.
- 5 The President  
Pudupakkam Panchayat Union  
Pudupakkam
- 6 The President  
Muttukadu Panchayat Union  
Old Mahabalipuram  
Road Egattur Chennai - 603103
- 7 The Chairman Tamil Nadu Electricity Board  
800 Anna Salai Chennai



8 The Superintending Engineer  
Tamil Nadu Electricity Board  
Pudupakkam Village  
Thiruporur Taluk Kancheepuram District

... Respondents

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Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the respondents herein to lay the road and place Electric Lamp Posts and provide lights in Tranquil Garden (M/s. Harshini Farms and Estates) the petitioner property at the layout of survey Nos. 152/ 3 152/ 4 152/ 5 153/ 1A 153/ 2 153/ 3A 153/ 3B 154/ 4A 154/ 4C 154/ 5 154/ 6 155/ 3 155/ 4 156/ 4 157/ 12B 157/ 7A 157/ 7B 157/ 7C 157/ 7D 157/ 8 158/ 2 159/ 1 159/ 2 159/ 3A 159/ 3B 159/ 3C 159/ 3D 159/ 3E 159/ 4 160/ 1 160/ 2 160/ 6 165/ 2A2 gifted roads as in Doc. No. 3447/ 2009.

For Petitioner : Ms.V.J.Latha

For Respondents : Mr.U.Baranidharan  
Government Advocate - for R1 to R4

Mr.M.Elumalai,  
Government Advocate - for R5

Mr.Sivashanmugasundaram - for R6

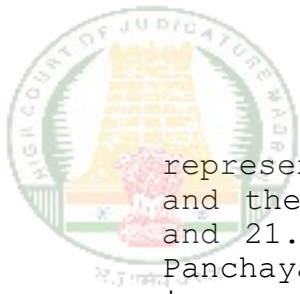
Mr.L.Jai Venkatesh,  
Standing Counsel - for RR 7 & 8

## O R D E R

This writ petition has been filed for the issue of a writ of Mandamus directing the fifth and sixth respondents to act upon the representation made by the Association, wherein the Association has sought for laying roads and for providing amenities.

2. The case of the petitioner is that, the Association consists of plot owners and they were not able to develop the property due to the non-availability of a pucca road and due to the fact that there were no street lights provided by the Department. The further case of the petitioner is that a gift deed has been executed in favour of the Thiruporur Panchayat Union through a registered document by M/s.Harshini Farms and Estates in Document No.3447 of 2009. The gift deed was executed in order to enable the formation of roads by the Panchayat Union.

3. It is stated that the petitioner Association were trying their best to get the roads laid by the Panchayat Union. A



representation was made to the second respondent in this regard and the second respondent, through proceedings dated 03.09.2018 and 21.12.2018 directed the Principal Secretary of Mamallapuram Panchayat Union to act upon the same. However, there was no improvement in the situation. Left with no other option, the present writ petition has been filed before this Court seeking for appropriate directions.

4. The fifth and sixth respondents have filed their counter affidavits. A specific stand has been taken in the counter affidavit to the effect that the layout and the plots comprised in the layout are unapproved. It is therefore stated that the respective plot owners will have to get the plots regularized and only thereafter seek for the laying of roads and other amenities.

5. In view of the above stand taken in the counter affidavit, this Court passed the following order on 23.09.2021.

" The counter affidavit has been filed by the respondents 5 and 6 and a specific stand has been taken to the effect that the plots comprised in layouts are unapproved. This affidavit has been sworn to by the Special Officer of the Pudupakkam Panchayat on 29.07.2019. The learned counsel for the petitioner submitted that she will take instructions from the petitioner association. The learned counsel further submitted that the layout has been approved subsequently and those particulars will also be submitted before this Court. A copy of the counter affidavit of the respondents 5 and 6 shall be served on the learned counsel for the petitioner immediately.

2. Post this case under the caption for orders on 07.10.2021."

6. The matter was again taken up for hearing today. The petitioner has filed a reply affidavit and the learned counsel for the petitioner specifically brought to the notice of this Court Para No.4 of the reply affidavit and for proper appreciation the same is extracted hereunder.

" 4. It is submitted that the Government issued a Notification for regularization of unapproved lands in G.O.(Ms) No.78, Housing and Urban Development (UD-4(3) Department dated 04.05.2017. In the said Notification, it has been stated that "in exercise of the powers conferred by Section 113 of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act



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35 of 1972), the Governor of Tamil Nadu hereby exempts all unapproved layouts, where any or all plots and sold and registered on or before the 20<sup>th</sup> October, 2016 and all unapproved plots which are sold and registered on or before the 20<sup>th</sup> October 2016 from the operation of all the provisions of the Tamil Nadu Town and Country Planning Act 1971 (Tamil Nadu Act 35 of 1972) and makes the following rules for regularization of such unauthorized layouts and plots under Section 122 of the said Act. In pursuance of the above said G.O., the members herein submitted the applications by paying necessary development charges for regularization of their land. All the members individually obtained necessary approval in the year 2017 & 2018. Hence the contention of the Respondents 5 and 6 that the lands are unapproved is denied. It is reiterated that all the present plots belonging to the members of the petitioner Association are all approved."

7. The learned counsel for the petitioner further submitted that, once the plots are regularized, the plot owners are entitled to be given the facility of roads and other amenities. This is more so since a gift deed has already been executed for the purpose of laying the road and for providing the amenities.

8. This Court has carefully considered the submissions made on either side and the materials available on record.

9. A specific stand has been taken to the effect that all the plot owners have regularized the residential plots pursuant to the issuance of G.O.Ms.No.78 dated 04.05.2017. Under the said Government Order, once the regularization takes place, it shall be deemed to be regularized for residential usage irrespective of the land use zone in the development plans concerned. By virtue of the same, the plot owners belonging to the petitioner Association will have the right to be provided with the roads and other amenities.

10. In view of the above discussion, there shall be a direction to the petitioner Association to make a fresh representation to the fifth and sixth respondents along with all the relevant documents to prove the regularization of the plots and also a copy of this order. The fifth and sixth respondents, on receipt of the same, shall act upon the representation and shall ensure that the roads are laid and the amenities are provided for the regularized plots. The lands have already been gifted for this purpose as early as in the year 2009 itself and those lands shall be utilized for the purpose of putting up the roads and providing amenities. This exercise shall be completed



by the fifth and sixth respondents within a period of six months from the date of receipt of the representation from the petitioner Association.

11. This writ petition is disposed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

KST

To

- 1 The State of Tamil Nadu  
Rep. by its Secretary to Government  
Department of Rural Development Secretariat  
Fort St. George Chennai - 600009
- 2 The District Collector  
Kancheepuram and District
- 3 The Thasildar  
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8 The Superintending Engineer  
Tamil Nadu Electricity Board  
Pudupakkkam Village  
Thiruporur Taluk Kancheepuram District

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+1cc to M/s.V.J.Latha, Advocate, S.R.No.53290

+1cc to Mr.M.Elumalai, Advocate, S.R.No.53038

+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.52903

+1cc to the Government Pleader, S.R.No.53170

W.P.No.13677 of 2019

MG (CO)  
SU (26/10/2021)