

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.02.2021

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THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

W.P.Nos.14138 & 14564 of 2020
and W.M.P.Nos.17565 & 18056 of 2020

L.Sasitha ... Petitioner in both petitions

Versus

The Executive Officer,
Agaram Then Village Panchayat,
St.Thomas Mount Panchayat Union,
Tambaram Taluk,
Chengalpattu District. ... Respondents in W.P.No.14138/2020

1.The Block Development Officer,
St.Thomas Mount Panchayat Union,
Chitalapakkam, Chennai 600 064.

2.The Executive Officer,
Agaram Tehn Village Panchayat,
St.Thomas Mount Panchayat Union,
Tambaram Taluk, Chengalpattu District.

3.CMDA Approved Plot Owners and
Residents Welfare Association, rep by
Mr.Ganesa Prakash, President, functioning
at Door No.4/98, Krishna Nagar Main Road,
Lydia Matriculation School Campus, Krishna Nagar,
Madambakkam Post, Chennai 600 126.

(R3 impleaded vide order dated 04.01.2021
in W.M.P.No.24203/2021) ... Respondents in W.P.No.14564/2020

Prayer in W.P.No.14138/2020 :- Writ petition filed under
Article 226 of the Constitution of India praying for issuance
of a Writ of Mandamus directing the respondent to consider the
petitioner's representation dated 21.09.2020 by approving the
planning permission to construct the existing ground Floor and
proposed First floor residential building bearing survey No.
3 / 18, Krishna Nagar Main road, Kasapuram Village Panchayat,
St.Thomas Mount Panchayat Union, Tambaram Taluk, Chengleput
District to secure the ends of justice and pass such further

or other orders as this Court may deem fit.

Prayer in W.P.No.14564/2020 :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records made in Na.Ka. No. 1482/ 2020/ A1 dated Nil on the file of Block Development Officer St.Thomus Mount Panchayat Union Chitlapakkam Chennai- 600 064 the First Respondent herein and quash the same as illegal and Direct the respondents to grant planning permission to the petitioner to construct the existing Ground floor and proposed First Floor residential building bearing Survey No.3/18 Krishna Nagar Main Road Kosapuram Village panchayat St.Thomus Mount panchayat Union Tambaram Taluk Chengalput District by considering the representation of the petitioner dated 21.09.2020 on the file of Second respondent herein to secure the ends of justice.

For Petitioner in both petitions :Mr.S.Sankarasubbu

For Respondent in W.P.No.14138/2020:

Mr.V.Jayaprakash Narayanan
Government Pleader

For Respondents in W.P.No.14564/2020:

Mr.V.Jayaprakash Narayanan
Government Pleader for R1

Mr.R.Vijayakumar
Additional Government Pleader
for R2

Mr.J.R.K.Bhavananthan for R3

COMMON ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J. through video conferencing]

By consent, both these Writ Petitions are taken up and are disposed of by this common order, as the issue to be adjudicated is one and the same.

2. The petitioner claims to have purchased a landed property comprised in S.F.No.3/18, Krishna Nagar Main Road, Kosapuram Village Panchayat, St.Thomas Mount Panchayat Union, Tambaram Taluk, Chengalpet District, admeasuring an extent of 2068 sq.ft, through the registered Sale Deed dated 07.06.2006, bearing Document No.4963 of 2006, registered on the file of the office of the Sub-Registrar, Tambaram. The petitioner has applied for planning permission and however before it was approved and granted, has put up a superstructure. Thereafter, the 1st respondent has issued the impugned notice dated 28.09.2020, stating among other things that the petitioner without any Planning Permission had put up superstructure on

the land in the said Survey Number and informed that in terms of Section 130 of the Tamil Nadu Panchayat Act, 1994, the offending construction would be demolished at 11 A.M on 30.09.2020 and challenging the legality of the notice, came forward to file W.P.No.14564/2020. The petitioner, on an earlier occasion filed W.P.No.14138 of 2020, praying for issuance of Writ of Mandamus for consideration and disposal of his representation dated 21.09.2020, for approving the Planning Permission, so as to enable her to regularise the said unauthorised construction. Originally W.P.No.14138 of 2020 was entertained and there was an interim order, restraining the respondents from deferring further action as to the demolition of the superstructure.

3. The respondent has filed a counter affidavit dated 12.10.2020 in W.P.No.14138 of 2020 and took a stand that the vendor to the registered Sale Deed dated 07.06.2006, executed in favour of the petitioner has no alienable or conveyable right for the reasons that the Sale Deed executed is a bogus and fraudulent transaction and that apart, the land in S.F.No.3/18, was gifted through the registered Sale Deed dated 07.06.2006, bearing Document No.4963 of 2006, registered on the file of the office of the Sub-Registrar, Tambaram and in the light of the Sale Deed dated 07.06.2006, the petitioner has no right at all and this Court has taken note of the said fact and did not extend the interim order in W.P.No.14138 of 2020.

4. Mr.V.Jayaprakash Narayanan, learned Government Pleader appearing for the respondents would submit that in the light of non extension of interim order, the offending construction has been demolished completely on 22.10.2020.

5. Mr.R.Sankarasubbu, learned counsel appearing for the petitioner in these Writ Petition would submit that the petitioner has purchased the land in question through a registered Sale Deed and as such, it is always open to her to workout her remedy in accordance with law before the competent Forum and on instructions, would further submit that till the said issue is sorted out, the land in question will be kept as vacant land and the said submission on instructions, is placed on record.

6. Mr.J.R.K.Bhavanantham, learned counsel appearing for the 3rd respondent in W.P.No.14564/2020 would submit that in the light of the stand taken by the Local Body in the counter affidavit, the petitioner is not having any semblance of right over the land in question and in the light of the fact that the offending construction has been demolished, nothing remains for further adjudication in this Writ Petition.

7. This Court has carefully considered the rival submissions and also perused the materials placed before it.

8. This Court, having taken note of the counter affidavit of the respondent filed in W.P.No.14138 of 2020, did not extend the interim order and the Local Body has also demolished the superstructure on 22.10.2020. The fact remains that the petitioner claims to have purchased the land in question through the registered Sale Deed, bearing Document No.4963 of 2006, registered on the file of the office of the Sub-Registrar, Tambaram and if it is available to her under law, she may workout her further remedies in accordance with law, before the competent Forum.

9. In the light of the submission made by the learned counsel appearing for the petitioner on instructions that the land in question, after demolition of the superstructure, shall remain as a vacant land, and that it will be maintained as it is, no further orders are necessary. However taking into consideration the stand taken by the official respondent in W.P.No.14138/2020, the petitioner till the legal proceedings concluded in her favour, shall not create any third party rights in respect of the land in question.

10. The Writ Petition stands disposed of accordingly. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-V)

//True copy//

Sub Assistant Registrar

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1.The Executive Officer,
Agaram Then Village Panchayat,
St.Thomas Mount Panchayat Union,
Tambaram Taluk,
Chengalpattu District.

2.The Block Development Officer,
St.Thomas Mount Panchayat Union,
Chitalapakkam, Chennai 600 064.

+1cc to Mr.V.Jayaprakash Narayanan, Advocate SR.No.9140

+1cc to Mr.J.R.K.Bhavananthan, Advocate SR.No.8983

W.P.Nos.14138 & 14564 of 2020

VG-II(CO)

GMV(08/04/2021)