

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.01.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.Nos.18760 of 2020 and 1135 of 2021
and W.M.P.Nos.23314/2020 & 1266 & 1268 of 2021

K.Devendiran ... Petitioner in both petitions

Versus

1.The District Collector,
Chennai District,
No.62, Rajaji Salai,
Fourth Floor, Chennai 600 001.

2.The Tahsildar,
Sholinganallur Taluk,
No.1, Rajiv Gandhi Salai, 1st Cross Street,
Sholinganallur, Chennai 600 119.

3.The Executive Engineer/Zone-14,
Greater Chennai Corporation, Zonal Office-14,
No.6/64, Puzhuthivakkam Main Road,
Puzhuthivakkam, Chennai 600 091.

.. Respondents in W.P.No.18760/2020

1.The Secretary to Government
Housing and Urban Development
Department,
Secretariat, Chennai 600 009.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Greater Chennai Corporation,
Chennai 600 008.

3.The Commissioner Corporation,
Greater Chennai Corporation,
Chennai 600 003.

4.The Executive Engineer/Zone-14,
Greater Chennai Corporation, Zonal Office-14,
No.6/64, Puzhuthivakkam Main Road,
Puzhuthivakkam, Chennai 600 091.

5.The Assistant Engineer/Zone-14,
Greater Chennai Corporation, Zonal Office-14,
No.6/64, Puzhuthivakkam Main Road,
Puzhuthivakkam, Chennai 600 091.

... Respondents in W.P.No.1135/2021

Prayer in W.P.No.18760/2020:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 and 2 to consider the representation dated 11.11.2020 which was made to obtain patta to the property situated at No.4, 3rd Street, Sri Nageswari Amman Nagar, Pallikaranai, Chennai-100 and pass such further order or other orders as this Court may deem fit.

Prayer in W.P.No.1135/2021:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus by calling for the records of 1st respondent in proceedings Letter No.18009/UD-VI(2)/2020-1 dated 29.12.2020 to quash the same and consider the rejection of petitioner's representation dated 18.12.2020, and directing the 3rd respondent to take enforcement action on the property of the petitioner situated at No.4, 3rd Street, Sri Nageswari Amman Nagar, Pallikaranai, Chennai 100.

For Petitioner in both W.Ps : Mr.D.Vijayan

For Respondents in W.P.No.18760/2020:

For RR1 & 2 : Mr.R.Vijayakumar
Additional Government Pleader
For RR3 : Mr.M.Ganesh

For Respondents in W.P.No.1135/2021:

For RR1 : Mr.R.Vijaya Kumar
Additional Government Pleader
For RR2 : Mr.P.S.Ganesh
Standing Counsel (CMDA)
For RR3 to 5 : Mr.K.Raja Srinivas
Standing Counsel (Corporation)

COMMON ORDER

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

By consent, both these Writ Petitions are taken up and are disposed of by this common order, as the facts pleaded, and issues to be adjudicated are intertwined. The petitioner claims to be the owner of the premises bearing Door No.4, Sri Nageshwari Amman Nagar, 3rd Street, Pallikaranai, Chennai 600 100 and the constructed area / plinth area of the superstructure is about 2000 sq.ft consist of Ground + First Floor and it is situated on the land bearing S.F.No.70 of Pallikaranai Village.

2. The learned counsel appearing for the petitioner would submit that the wife of the petitioner was granted assignment of land measuring about 1000 sq.ft in S.F.No.70/12, Block No.12 of Palliakaranai Village, vide proceedings of the Collector of Kancheepuram in Na.Ka.NO.22994 of 2013 dated 17.07.20... and the Tahsildar, Sholinganallur, dated 30.08.2013, in Na.Ka.No.10795 of 2012 Aa.1 and he would further submit that though the land was assigned in favour of the wife of the petitioner, Patta was not at all issued and in this regard, apart from persons similarly placed had submitted representations through Association, the petitioner has also submitted his individual representation dated 11.11.2019, to the 1st respondent and no orders have been passed and in the interregnum, the 3rd respondent in W.P.No.18760 of 2020 / 4th respondent in W.P.No.1135/2021, has initiated action by issuing notice under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 ('the TCP Act') and challenging the said notice, the petitioner has submitted an appeal / Special Revision dated 18.12.2020, before the 1st respondent and though some time was granted to obtain Patta, no steps have been taken to issue Patta in his favour, and without taking note of the same, the 1st respondent has erroneously rejected the said Special Revision / Appeal,

vide impugned order dated 29.12.2020 and hence he prays for appropriate orders, by directing the Collector of Chennai District to consider and dispose of his representation dated 11.11.2019 and till such time prayed for deferment of further proceedings in terms of the order of the 1st respondent in W.P.No.1135 of 2021, dated 29.12.2020.

3. Ms.Srijayanthi, learned Special Government Pleader appearing for the 1st respondent in these Writ Petitions would submit that admittedly though enough indulgence has been shown to the petitioner to get pattas in respect of the land in question, he is unable to do so and admittedly, the superstructure is having a plinth area of 2000 sq.ft in the form of Ground + First floor, and this came into being without obtaining any planning permission and despite indulgence having been shown by the 1st respondent to obtain patta, which has also been reflected in the impugned order, the petitioner did not do so and therefore, the said Revision / Appeal came to be rejected rightly and hence prays for dismissal of this Writ Petition.

4. Mr.Raja Srinivas, learned Standing Counsel appearing for the Corporation of Chennai would submit that in the absence of any planning

permission / approval, action taken under Sections 56 and 57 read with Section 85 of the TCP Act, cannot be found faulted with.

5. Mr.P.S.Ganesan, learned standing counsel appearing for the 2nd respondent in W.P.No.1135 of 2021 would submit that the matter in issue falls within the exclusive domain of the Greater Chennai Corporation.

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

7. The 1st respondent in W.P.No.1135 of 2020 has taken note of the relevant materials and in the light of the order passed in W.P.No.18666 of 2019, has also granted time twice as a last chance, so as to enable the petitioner to get patta and thereafter to apply for planning permission and one more time extension was granted on 02.03.2020 and despite granting very many opportunities, the petitioner is unable to get patta in respect of the land, said to have assigned in favour of his wife. It also appears from the materials that the petitioner did not have any Planning Permission / permit to put up superstructure consist of Ground + First Floor having plinth area of 1000 sq.ft each other.

8. The 1st respondent in W.P.No.1135 of 2021, in discharging of duty, in the light of the statutory provisions, has taken note of the relevant provisions and having noted that despite several opportunities, given to the petitioner, he was unable to obtain patta and having noted that the construction is also unauthorised, has rightly rejected the Special Revision / Appeal vide impugned proceedings / communication dated 29.12.2020.

9. It is a well settled position of law that under Article 226 of the Constitution of India, the scope of judicial review pertains to the orders passed by the statutory authority is limited, unless it is proved that the order is perverse on the face of it and came to be passed without relevance to any materials. In the considered opinion of this Court, the impugned order is a speaking order and well considered one and this Court is unable to interfere with the said order.

10. Now coming to the prayer made by the petitioner in W.P.No.18760 of 2020, a perusal of the representation dated 11.11.2020, it is bereft of any particulars and in the light of the same, it is open to the

wife of the petitioner to submit a detailed representation by enclosing relevant and authenticated documents to the respondents 1 and 2, within a period of three weeks from the date of receipt of a copy of this order / uploading of the order in the website and upon receipt of the same, the 2nd respondent in W.P.No.18760 of 2020, is directed to consider the said representation, in the light of the relevant revenue records, including authenticity or otherwise of the order of assignment granted in favour of the wife petitioner, in respect of the land bearing S.F.No.70/12, Block No.12 of Palliakaranai Village ,and consider and dispose of the said representation within a further period of six weeks thereafter and communicate the decision taken, to the petitioner and his wife.

11. In the result, W.P.No.1135 of 2021, is dismissed and W.P.No.18760 of 2020 is disposed of accordingly. Consequently connected miscellaneous petitions are closed. No costs.

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[M.S.N.,J] [A.A.N.,J.]
25.01.2021

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Internet: Yes /No
Index: Yes/ No

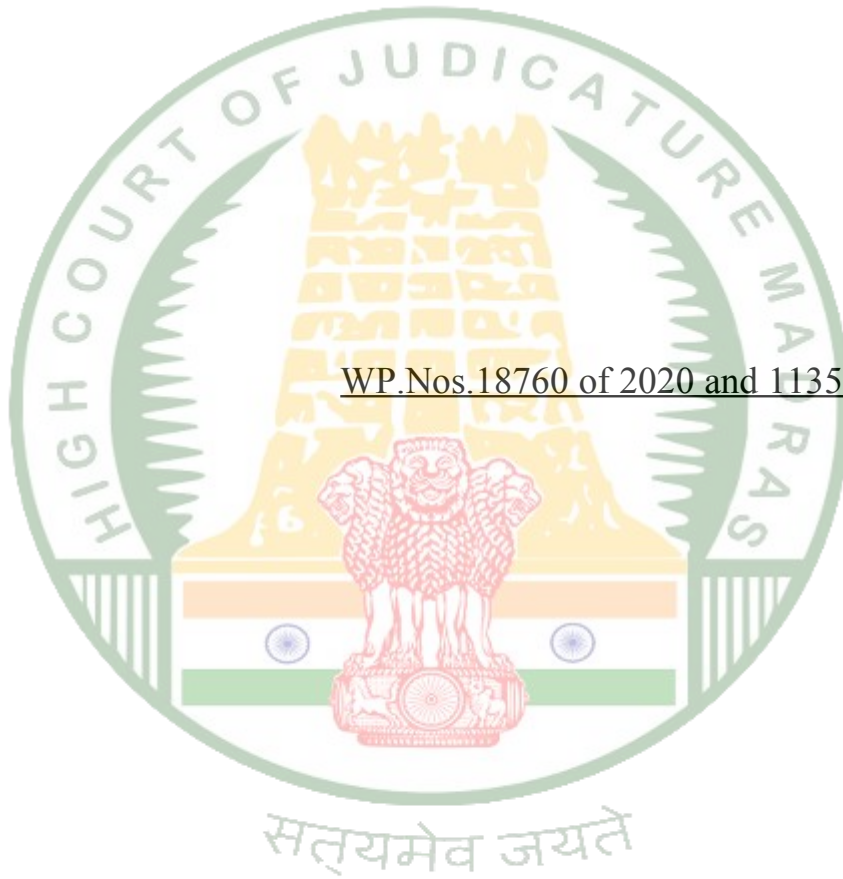
To

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A.A.NAKKIRAN, J.,

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