



IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 08.10.2021

Coram :

WEB COPY

The Honourable Mr. Justice T.S. SIVAGNANAM
and
The Honourable Mr. Justice SATHI KUMAR SUKUMARA KURUP

Writ Petition No. 21484 of 2021 and WMP Nos. 22717 and 22719 of 2021

Sundaram Colony Association,
Represented by its Secretary,
D.S. Madhavan

...Petitioner

Vs

1. The Tambaram Municipality,
Rep. by its Commissioner,
Chennai.

2. The Chennai Metropolitan
Development Authority,
Chennai.

3. The Director, Town and Country
Planning, Anna Salai,
Chennai-2.

4. V. Krishnamoorthy
5. Sri. Nandakumar

...Respondents

PETITION under Article 226 of The Constitution of India praying for issuance of a Writ of Mandamus forbearing 1st, 2nd and 3rd respondents from granting any planning permission to construct any building or buildings in the OSR area earmarked and approved in Layout No. 178 of 1961 in P.T. No. 16981 of 1961 dated 28.12.1961 read with TPC 56, dated 25.4.1969 dated at Survey Nos. 96 to 108 in Selaiyur Village and thereby restraining the fifth respondent or any other purchasers from constructing the building in the said OSR area.

For Petitioner : Mr. T. Ramesh
For Respondent-1 : Mr. P. Srinivas

Order of the Court was made by T.S. SIVAGNANAM, J

We have heard Mr. T. Ramesh, learned counsel for the petitioner and Mr. P. Srinivas, learned Standing Counsel accepting notice for the first respondent. In view of the nature of order this Court proposes to pass, notice to respondents 2 and 3 are dispensed with and the writ petition itself is taken up for final disposal.



2. The present writ petition, which is styled as a public interest litigation, has been filed by the association called Sundaram Colony Association represented by its Secretary Mr.D.S.Madhavan. They seek for a Writ of Mandamus to forbear respondents 1 to 3 from granting any planning permission for construction of any building in the OSR area earmarked in the layout, which was approved on 28.12.1961 and to restrain the fifth respondent - the person, who is alleged to be putting up construction not to do so.

3. It is seen from the material papers placed in the typed set of papers that the Secretary of the petitioner association has been before this Court for several years either in the name of the association or in his individual capacity. There had been orders passed by this Court and we are informed by the learned Standing Counsel appearing for the first respondent that the same plea raised by the petitioner has been rejected by this Court and also by the Hon'ble Supreme Court.

4. Be that as it may, the Secretary of the petitioner association filed W.P.No.25440 of 2015 wherein he sought for a Writ of Mandamus directing the Commissioner, Tambaram Municipality to pass orders on the petitioner's representation dated 07.6.2014 on the basis of the proceedings of the Revenue Divisional Officer dated 02.3.2015 and the Tahsildar, Tambaram dated 02.4.2015 by producing/issuing a copy of the order of de-reservation said to have been passed in the year 1969 with regard to the public lands measuring an extent of 29.9 grounds in Sundaram Colony, East Tambaram Chennai-59. In the said writ petition, an interim direction was granted on 17.8.2015 and the Commissioner, Tambaram Municipality was directed to take the list of purchased persons, who are in possession in the above mentioned property namely 29.9 grounds and if any portion of the land has been sold or utilized, the Commissioner, Tambaram Municipality was directed to file an affidavit in this regard.

5. It is not disputed before us that the said writ petition is still pending and a counter affidavit has been filed by the fourth respondent submitting that the layout was sanctioned in the year 1961 before the enactment of the Town and Country Planning Act in Layout No.178/1961 and at that time, there was no requirement for getting the open space reserved sites to be transferred to local body. It has been further stated that as per the stand taken in the counter filed by the Government before the Hon'ble Supreme Court in SLP.No.1233 of 2004, the lands were dereserved as the Local Body did not have sufficient funds to acquire the lands from the owners of the lands, who formed the layout and pursuant to the same, the plots had been converted into residential and they had been subdivided and sold. It has also been stated that the Municipality sanctioned building permission for the said sites also and therefore, the Tambaram Municipality took



a stand that the the lands were no longer public spaces reserved for public use and are all private lands. It has been further pointed out that the stand taken by the Tambaram Municipality has been accepted by the Hon'ble Division Bench of this Court while allowing W.A.Nos.407 and 723 of 1996 by judgment dated 13.9.2001 and therefore, the lands have been acknowledged to be private lands and they were no longer having the character of public sites in a layout. Apart from that, we find that the Tambaram Municipality filed an elaborate counter consisting about 31 paragraphs.

6. The Secretary of the petitioner association Mr.D.S.Madhavan filed a reply affidavit to that counter and the said writ petition is still pending.

7. The present attempt of the petitioner cannot be countenanced especially when the earlier writ petition is still pending and except that the prayer has been differently couched, there is no fresh cause of action for the petitioner to file the present writ petition as a public interest litigation. Hence, we are not inclined to entertain the same.

8. Accordingly, the above writ petition is dismissed. However, it will be open to the petitioner to pursue their claims in the pending writ petition namely W.P.No.28857 of 2012. No costs. Consequently, the connected WMPs are also dismissed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner,
Tambaram Municipality, Chennai.

2.The Chennai Metropolitan Development Authority,
Chennai.

3.The Director,
Town and Country Planning, Anna Salai,
Chennai-2.

+1 cc to Mr.P.Srinivas, Advocate Sr.NO. 53014

+1 cc to Government Pleader Sr.NO. 53149

WP.No.21484 of 2021 &
WMP Nos.22717 and 22719
of 2021

RLD(CO)

A.SK(12.11.2021)