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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.11.2021

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.NO.19503 OF 2017

AND

W.M.P.NO.21053 OF 2017

Dwaraka Nagar Residents Welfare Association,
(Manali Phase I & II)
Rep. by its Secretary P.Mani,
No.5,737, Dwaraka Nagar, Phase I,
Manali New Town, P.O.
Chennai - 600 103.

...Petitioner

..Vs..

1. The Chief Secretary,
TN Secretariat, St.George Town,
Chennai - 600 003.
2. The Home Secretary,
TN Secretariat, St.George Town,
Chennai - 600 003.
3. The Collector,
Singaravelar Building, Rajaji Salai,
Chennai - 600 008.
4. The Commissioner of Police,
Egmore, Chennai - 600 008.
5. The Chairman/MD,
Tamil Nadu Housing Board,
Anna Nagar Circle,
Thirumangalam,
Chennai - 600 101.
6. The Executive Engineer,
Zonal-II (Manali)
Chennai Corporation,
No.112, Dr.Ambedkar Salai,
Manali, Chennai - 600 068.



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7. The District Revenue Officer,
Zonal-II (Manali)
Chennai Corporation,
No.127, Padasalai Street,
Manali, Chennai - 600 068.
8. The Joint Commissioner (Traffic),
Chennai City Police,
Chennai.
9. The Secretary,
Tamil Nadu Housing Board and
Urban Development Department,
Secretariat, Chennai - 600 009.

...Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent-5 (TNHB) to immediately cancel the allotment granted to the persons who are running or permit such use of plots unauthorised garage in the residential plots and directing the respondent-8 (The Joint Commissioner (Traffic)) to seize the heavy vehicles parked unauthorised in Manali area within TNHB plots phase I and 2 and may pass such further or other orders as this Hon'ble Court may deem fit.

For Petitioner : Mrs.Chitra Devi for
M/s.M.Akila

For Respondents : Mr.V.Nanmaran, AGP
for R1, 2, 3, 4 and 8

Mr.R.Bharathkumar R5 and R9

Mr.K.RajaShrinivas,
Standing Counsel for R6 & R7

ORDER

This writ petition has been filed, praying to issue a Writ of Mandamus, to direct the respondent-5 (TNHB) to immediately cancel the allotment granted to the persons who are running or permit such use of plots unauthorized garage in the residential plots and also direct the respondent No.8 (The Joint Commissioner (Traffic)) to seize the heavy vehicles parked unauthorizedly in Manali area within TNHB plots phase I and 2.



2. The petitioner is a registered association, represented by its Secretary and the case of the petitioner is that the entire area of Manali I & II was allotted to the Public to have a residential plot of 6300 in order to have residence and a separate area was allotted for commercial purpose. Most of the allottees, who have not put up construction and the said lands are vacant and the same are used for parking heavy vehicles and some people are using residential plots as Garage for the heavy vehicles, which resulted in pollution of air, water and noise and also causing nuisance in the locality. All the roads and platforms are damaged due to parking of the heavy vehicles. Accordingly, the petitioner has given several representations to the respondents dated 24.07.2012, 16.12.2014, 27.01.2015 and 24.07.2015. Even though, there is no response from the authorities and till date, representations of the petitioner's were not disposed. Aggrieved over the same, the petitioner is before this Court by virtue of the present writ petition.

3. Heard Mr.V.Nanmaran, learned Additional Government Pleader appearing on behalf of the respondent Nos. 1,2,3,4 and 8 and Mr.R.Bharath Kumar, learned counsel appearing on behalf of the respondent Nos. 5 and 9. None appeared for the respondent Nos. 6 and 7. Perused the entire materials placed on record.

4. Both the learned counsel appearing for the respective respondents submitted that the residential plots were allotted only for residential purpose and the allottees should use the said plots only for residential purpose and they cannot use the same for commercial usage. In the event any of the residential plots are used for the commercial purpose, the Chennai Corporation will take appropriate action if it comes to its notice and they further submit that the 4th and 8th respondents also will take necessary action if they receive any complaint on behalf of the petitioner association.

5. Upon hearing, it appears that some of the plot owners have been using the plots as garage for the heavy vehicles and also using the said plots for other commercial purposes. A residential plot allotted to the allottee is meant for construction of the residential houses and the same cannot be used for any other commercial activities. In the event if no residential house is constructed, the vacant plot cannot be used as garage for heavy vehicles and no commercial activities should be carried on. If any such activities are allowed, no doubt it would be a nuisance to the other plot owners and therefore, it is the duty of the respondents 4 to 8 to inspect the plots situated in Manali area, phase - I and II, from time to time and if found any commercial activities are carried on in the vacant plots and the same shall be removed at once and thereafter, take



necessary legal action against the persons those who used said plots for commercial activities.

6. In view of the above, this Court directs the respondents 4 to 8 to take appropriate legal action in accordance with law at once against the plot owners whenever those who use their plots other than residential purpose and also other persons those who have been using this residential plots for commercial activities either with or without the consent of the respective plot owners. It is made clear, even subsequent to this order, if any commercial activities are permitted, it is only the respondents 4 to 8 are to be blamed for their failure to discharge their duties.

7. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

Pns

To

1. The Chief Secretary,
TN Secretariat, St.George Town,
Chennai - 600 003.
2. The Home Secretary,
TN Secretariat, St.George Town,
Chennai - 600 003.
3. The Collector,
Singaravelar Building, Rajaji Salai,
Chennai - 600 008.
4. The Commissioner of Police,
Egmore, Chennai - 600 008.
5. The Chairman/MD,
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6. The Executive Engineer,
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8. The Joint Commissioner (Traffic),
Chennai City Police,
Chennai.
9. The Secretary,
Tamil Nadu Housing Board and
Urban Development Department,
Secretariat, Chennai - 600 009.

+1cc to M/s.R.Bharathkumar, Advocate, S.R.No.61251

W.P.No.19503 of 2017
and
W.M.P.Nos.21053 of 2017

SR-II (CO)
RLP (06/12/2021)