

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.12815 of 2022
and WMP.Nos.12283 & 12284 of 2022

P.Krishna Kumari ... Petitioner

vs.

1.The Senior Planner, Layout,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Salai,
Egmore, Chennai 600 008.

2.The Commissioner,
Poonamallee, Panchayat Union,
Poonamallee, Town and Taluk,
Thiruvallur District.

3. The President,
Soranjeri Village Panchayat,
Soranjeri Village,
Poonamallee Taluk & District.

4.P.Ramachandran

5.P.S.Madhava Naidu

6.J.Saravanan ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari and Mandamus, calling for the entire records pertaining to the impugned proceedings issued by the 1st respondent vide his proceedings bearing No.Letter No.Layout -1/0185/2021 dated 25.04.2022 and quash the same as illegal, arbitrary, unreasonable being violative of rules and principles of natural justice and thereby direct the respondents 1 to 3 to desist from in any manner granting approval for the respondents 4 to 6 proposed layout by showing the petitioner's road as access to their layout.

For Petitioner : Mr.A.R.Suresh
For R1 : M/s.P.Veena Suresh
For R2 : Mr.C.Jayaprakash
Government Advocate
For R3 : Mr.E.Sundaram
For R4 to R6 : Mr.S.R.Raghunathan

O R D E R

This writ petition has been filed to issue a writ of Certiorari Mandamus, calling for the entire records pertaining to the impugned proceedings issued by the 1st respondent vide his proceedings bearing No.Letter No.Layout -1/0185/2021 dated 25.04.2022 and quash the same, direct the respondents 1 to 3 to desist from in any manner granting approval for the respondents 4 to 6 proposed layout by showing the petitioner's road as access to their layout.

2. It is the case of the petitioner that the lands in various Survey Numbers in No.6, Soranchri Madura, Ayilacher, Poonamallee Taluk, Tiruvallur District originally belonged to the petitioner's Grandfather late.Ramasamy Naidu and his wife Mrs.Bhoodevi Ammal. After the death of his grandfather and grand mother, the petitioner's father late.Suranarayana Naidu had become the absolute owner of the properties. Thereafter, his father late.Suryanarayana Naidu purchased some other properties also. After that, his father died on 31.07.1983 and thereafter his mother died on 08.03.2011 leaving behind their three daughters and two sons. After the death of her mother, the petitioner and her siblings partitioned the properties vide Partition Deed dated 07.05.2015. In the said partition, the "B" schedule property was allotted to the petitioner .

3. It is the further case of the petitioner that the petitioner had executed a registered General Power of Attorney dated 02.07.2019 in favour of her husband Mr.P.Prabhakaran. The power of Attorney agent along with the other sharers converted the lands into residential house plots in the name of Suryanarayana Garden and obtained approval from the Chennai Metropolitan Development Authority, the first respondent vide its proceedings No.Na.Ka.388/2020/A3 in Approval No.140/2020 and 141/2020. The petitioner and her siblings gifted the roads and

other public places to the Local Authority viz,, the Commissioner of Poonamallee Panchayat Union. One Gift Deed dated 15.07.2020 was executed by the petitioner and her siblings and another Gift Deed dated 15.12.2020 was executed by the petitioner in favour of the Commissioner, Poonamallee, whereby the certain portion of the land in the petitioner's lay out gifted to the Government, Local Authority for the purpose of formation of roads and public convenience.

4. It is also the specific case of the petitioner that the private respondents have no right to enter into their property which is almost a gated community. Therefore access to the property in the proposed lay out approval to the private respondents will be an encroachment of the roads that have been gifted specifically for the benefit/use of the public in the petitioner's lay out only and not for the general public.

5. Opposing the prayer, the learned counsel for the official respondents and the private respondents state that the petitioner has no locu-standi for the relief over the subject property/or road or obstruct the official respondents 2 and 3 and the private respondents 4 to 6. It is submitted that easementary rights, based on the two gift deeds dated 15.07.2020 and 15.12.2020 respectively cannot be denied.

6. It is submitted that Rule 47 of the Tamil Nadu Combined Development and Building Rules, 2019, seeks to ensure access to plots by way of roads and private passages, creating hierarchy of roads depending on the road length and intensity of developments in the area and also to provide adequate linkages to the existing roads and further to provides proper circulation pattern in the area, providing required recreational spaces such as parks or playgrounds, and providing spaces for common amenities such as schools, post and telegraph offices, fire stations, police stations etc.

7. That apart, it is submitted that the petitioner has unconditionally gifted the land by the two gift deeds for public use which is described in the schedule to the gift deeds. It is further submitted that the petitioner having gifted the land compliance with the prevailing Rules and Regulations, cannot object to the use of public road.

8. That apart, it is submitted that the petitioner has also filed O.S.No.341 of 2021 before the II Additional District Judge, Poonamallee, Thiruvallur District against the official respondents and also the private respondents seeking for a

declaration and a permanent injunction. It is further submitted that the petitioner has not obtained any interim order from the Trial Court.

9. I have considered the arguments advanced by the learned counsel for the petitioner; and the learned counsel for the official respondents and the learned counsel for the private respondents and I have also perused the affidavit filed in support of the present writ petition and the provisions of the Tamil Nadu Combined Development and Building Rules, 2019. Rule 47(7) (a) of the Tamil Nadu Combined Development and Building Rules, 2019, reads as under:-

- (a) The space set apart for roads (except those which may remain private) and the 10% area reserved for recreational purposes shall be transferred to the Local Body free of cost through a registered gift deed before the actual sanction of the layout. The exact mode of conveyance should be consistent with the relevant enactment and regulations.

10. The two Gift Deeds executed by the petitioner and her siblings, indicates that the petitioner has gifted the land in terms of the Tamil Nadu Combined Development and Building Rules, 2019. Gift is for use of public and for connection with other public roads in the vicinity and the petitioner cannot exercise the exclusive rights over the gifted land.

11. Further, the petitioner has also filed a suit before the II Additional District Judge, Poonamallee, Thiruvallur in O.S.No.341 of 2021 for an almost identical relief. Therefore, the petitioner cannot seek remedy before this Court and before the Civil Court. Therefore, there is no merits in the present writ petition.

12. Therefore, this writ petition is liable to be dismissed and is accordingly dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

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To

- 1.The Senior Planner, Layout,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Salai,
Egmore, Chennai 600 008.
- 2.The Commissioner,
Poonamallee, Panchayat Union,
Poonamallee, Town and Taluk,
Thiruvallur District.
3. The President,
Soranjeri Village Panchayat,
Soranjeri Village,
Poonamallee Taluk & District.

+1cc to M/s.P.Veena Suresh, Advocate SR.No.42620
+1cc to Mr.C.Jayaprakash, Advocate SR.No.42866
+1cc to Mr.E.Sundaram, Advocate SR.NO.42865
+1cc to Mr.S.R.Raghunathan, Advocate SR.No.43007
+1cc to Mr.A.R.Suresh, Advocate, SR.43169

W.P.No.12815 of 2022

PL(CO)
CB(29/07/2022)