

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.14884 of 2021

Federation of Adambakkam Welfare
Associations (Regn.No.380/2015)
represented by its President-cum-Secretary
Balakrishnapuram Kudiyiruppor Nala Sangam
Mr.M.Saravanan, No.5, 4th Street,
Balakrishnapuram, Adambakkam,
Chennai-600 088.

...Petitioner

-vs-

1. The Secretary,
Government of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai-600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maaligai,
No.1, Gandhi Irwin Road, Egmore,
Chennai-600 008.
3. The District Collector,
Chennai District,
Singaravelar Maaligai,
Rajaji Salai, Chennai-600 001.
4. The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai-3.
5. The Director,
Town and Country Planning,
No.5, Varadharasanar Street,
Vedachalam Nagar,
Chengalpattu Town and District.
6. The Tahsildar,
Alandur Taluk,
Alandur, Chennai-600 016.

7. The Zonal Officer,
Greater Chennai Corporation,
Zone-XII, No.1 New Street,
Alandur, Chennai-600 016.

8. Shahul Hameed

9. Maidheen Abdul Khadar

10. Abubakkar

11. Ibrahim

12. Ansari

13. Fathimuthu

14. Ashiba

15. Suburnisha

16. Abdul Rahman

17. Zakir Hussain

18. Vasantha Luci

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 7 to recover, retrieve and restore the Open Space earmarked for public purpose in Paimash Nos.64 to 78, 80, 81, 82 and 1027 Ward-G, Block No.22, Town Survey No.24 to an extent of 14000 sq.ft. farming part of an approved layout in C.No.10388/63 LPDM/DTCP No.55/1963 of Balakrishnapuram, Adambakkam, situate within the jurisdiction of Greater Chennai Corporation Limit Zone-12, Division No.37, Ward No.163, Alandur Taluk, Chennai-600 088, by removing the illegal construction made by the respondents 8 to 18 and take over the possession thereof so as to ensure the earmarked usage of the land based on the representation made by the petitioner dated 17.09.2018.

For Petitioner : Mr.Ravichandran Sundaresan

For Respondents: Mr.K.Karthik Jaganathan,
Government Advocate
for R1, 3, 5 and 6

Mrs.P.Veena Suresh, SC for R2

Mr.K.Raja Shrinivas, SC for R4 & R7

Mr.A.G.Karthik Kumar
for R12 to R16

No Appearance for R9 to R11 & R17

Not Ready for R8 & R18

ORDER

(Order of the Court was made by T.RAJA, J.)

This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents 1 to 7 to recover, retrieve and restore the Open Space earmarked for public purpose in Paimash Nos.64 to 78, 80, 81, 82 and 1027 Ward-G, Block No.22, Town Survey No.24 to an extent of 14000 sq.ft. farming part of an approved layout in C.No.10388/63 LPDM/DTCP No.55/1963 of Balakrishnapuram, Adambakkam, situate within the jurisdiction of Greater Chennai Corporation Limit Zone-12, Division No.37, Ward No.163, Alandur Taluk, Chennai-600 088, by removing the illegal construction made by the respondents 8 to 18 and take over the possession thereof so as to ensure the earmarked usage of the land based on the representation made by the petitioner dated 17.09.2018.

2. Learned Counsel appearing for the petitioner would submit that the petitioner Association is represented by its President-cum-Secretary on behalf of its members who are living along with their families in Balakrishnapuram, Adambakkam. Its sole aim is to take care of the welfare of the members of the Association. While so, in the year 1963, one Namperumal Reddiyar formed a layout consisting of 82 housing plots, after providing open space to an extent of 14000 sq.ft. earmarked for public purpose in Paimash Nos.64-78, 80, 81, 82 and 1027, Ward-G, Block No.22, Present Town Survey No.24, Adambakkam Village. The said layout was approved by the 5th respondent in his proceedings in C.No.10388/63/LPDM/DTCP No.55/1963 and the same was presently known as Balakrishnapuram in Adambakkam Village which is now merged with the Greater Chennai Corporation in Zone-XII, Division 37, Ward No.163. The said Namperumal Chettiar who formed the layout under the name of Balakrishnapuram, sold away the housing plots to various persons including the members of the petitioner's Association and some of them who purchased the plots in the layout had constructed houses and living in the said area. While so, the private respondents 8 to 18 have attempted to put up unauthorized construction in the open space earmarked for public purpose.

3. Learned Counsel for the petitioner would further submit that on verification, the members of the petitioner's Association came to know that the said Namperumal Chettiar who developed the layout into house sites had sold the open space earmarked for public purpose to one Saraswathi. The said Saraswathi contrary to the sanctioned layout had further subdivided the open space into plots and sold the same to the private respondents herein. Now the private respondents are trying to put up permanent construction in the open space. Therefore, a representation dated 19.09.2018 was given to the official respondents to remove the unauthorized construction. Considering the said representation, the 7th respondent, namely,

the Zonal Officer, Greater Chennai Corporation, Zone-XII, No.1, New Street, Alandur, Chennai-600 016, by his proceedings in Ma.Aa.12/Na.Ka.No.E1.4932.2021 dated 20.09.2018 opined that the open space earmarked for public purpose to an extent of 14000 sq.ft. in Ward-G, Block No.22, T.S.No.24, Balakrishnapuram, was sold by one Saraswathi to the private respondents and the same would raise some doubt. Thereafter, the 3rd respondent herein, namely, the District Collector, Chennai District also in his proceedings in Na.Ka.No.J11/23221/2018 dated 10.10.2018 directed the Tahsildar, Alandur Taluk to take necessary action on the representation of the petitioner dated 24.09.2018. Again the 7th respondent by his Proceedings in Ma.Aa.12/Na.Ka.No.E1 dated 3.10.2018 requested the District Revenue Officer, Land Department, Greater Chennai Corporation to cancel the patta issued in favour of the private respondents. The 7th respondent once again by this Proceedings in Ma.Aa.12/Na.Ka.No.E1.04522.2018 dated 24.10.2018 requested the Revenue Divisional Officer, South Chennai, Guindy to cancel the patta issued in favour of the private respondents. In spite of the same, the respondent officials have not taken any steps to restore and maintain the open space which was earmarked for public purpose at the time of layout approval in the place-in-question.

4. At this stage, learned Counsel appearing for the respondents 12 to 16 has brought to the notice of this Court a Revocation Order passed by the Commissioner, Greater Chennai Corporation, Ripon Buildings, Chennai, in W.D.C.No.A7/0256/2018 dated 19.02.2019. A perusal of the same reveals that, the 4th respondent has come to the conclusion that on field verification, the reserved land in Old S.No.174/6, 7 Part, Adambakkam Village falls in the area reserved for parks as per the approved lay out vide No.LPDM/DTCP No.55/1963.

5. Learned Counsel appearing for the respondents 12 to 16 would submit that since the Commissioner, Greater Chennai Corporation in his Proceedings dated 19.02.2019 has already passed an order revoking the permit issued by the Greater Chennai Corporation vide No.00408/2018 dated 29.08.2018 for regularization of plot at Balakrishnapuram in T.S.No.24/2C and 2D Adambakkam Village in Division No.163, Zone-XII, nothing survives in this Writ Petition.

6. Learned Counsel appearing for the respondents 5 and 7 also would submit that there is no record available with them to say that the open space-in-question has been gifted to the Greater Chennai Corporation. He has also submitted that some of the persons who were aggrieved by the order dated 19.02.2019 passed by the Commissioner of Greater Chennai Corporation have also filed Writ Petitions, namely, W.P.Nos.2549, 2698, 2699 and 2941/2022 before this Court and the same are still pending.

7. Considering the facts and circumstances of the matter and also the fact that there was an revocation order already passed by the Commissioner of Greater Chennai Corporation dated 19.02.2019 in respect of the open space-in-question and aggrieved by the same, some of the persons have filed Writ Petitions before this Court and the same are pending consideration, we are of the view that nothing survives for further adjudication in this Writ Petition.

8. In the result, the Writ Petition is closed. However, it is open to the parties to seek appropriate remedy before the appropriate forum. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Government of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai-600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maaligai,
No.1, Gandhi Irwin Road, Egmore,
Chennai-600 008.
3. The District Collector,
Chennai District,
Singaravelar Maaligai,
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4. The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai-3.
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6. The Tahsildar,
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7. The Zonal Officer,
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Zone-XII, No.1 New Street,
Alandur, Chennai-600 016.

+1cc to M/s.P.Veena Suresh, Advocate SR. No. 27620
+1cc to Government Pleader SR. No. 27526
+3ccs to Mr.P.K.Narayanan, Advocate SR. No. 27241

W.P.No.14884 of 2021

JPII (CO)
PR (11/07/2022)