



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.14744 of 2022

and

W.M.P.Nos.13927 and 13928 of 2022

Kovur sai Kripa Residents Welfare
Association, Rep. by its President,
Mr.Anbarasu Venkatesan,
Sai Kripa Layout, Sathya Nagar,
Kovur, Kancheepuram District,
Tamil Nadu 600 128.

.. Petitioner

vs

1. The District Collector,
Kancheepuram District 631 501.
2. The Commissioner,
Kundrathur Panchayat Union,
Padappai 601 301.
3. The President,
Kovur Village Panchayat,
Chennai 600 128.
4. The Chennai Metropolitan Development
Authority (CMDA), Chennai 600 002.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records relating to the impugned notice dated 20.05.2022 and impugned order vide Ref.No: 2797/2022/A3 dated 18.05.2022 to quash the impugned notice and impugned order and justice be done to the petitioner by issuing writ restraining the 2nd and 3rd respondents from giving effect to the impugned notice dated 20.05.2022 and impugned order dated 18.05.2022 passed by the 2nd and 3rd respondents and calling upon the 4th respondent to act



on the representation given by the petitioner to cancel the erroneous layout approval No.PPD/LO/183/2021.

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For the Petitioner : Mr.P.Sridhar

For the Respondents : Mr.J.Ravindran
Addl. Adv. General
assisted by Mr.A.Selvendran,
Spl.G.P. for RR 1 and 2

: Mr.Sesubalan Raja
for M/s.Siva & Sesu
Stdg. Counsel for R-4 CMDA

ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

The writ petition has been filed to challenge the notice dated 20.05.2022 directing the respondents not to remove the compound wall erected by the petitioner association. It is in reference to a layout approved by the Chennai Metropolitan Development Authority (in short 'CMDA').

2. The learned counsel for the petitioner submits that the property in question was purchased from one Hanuman Prasad for construction of independent Villa houses, with a promise by the builder to make it as a gated-community for the safety of the occupants. Since the builder did not construct a gate or a wall for the safety of the occupants, the members of the petitioner association constructed a compound wall, which is now sought to be removed on the ground that it is an obstruction on the existing road. It is during the pendency of the representation made by the petitioner against the approval of the road by CMDA. Without a decision on the aforesaid, the notice has been given to remove the compound wall and therefore, it has been questioned. It is along with the prayer against the fourth respondent CMDA for approval of the road illegally, because they have not decided the representation made by the petitioner.

3. A reply to the notice was given referring to the promise made by the builder with further statement that the land does not belong to the Panchayat Union. The inner road carved out by the builder cannot be shown to be a connecting road and therefore, the approval of the road by the CMDA was illegal. It



is one Jayachandran got the approval of the CMDA suppressing the material facts.

4. The reply against the notice further shows that on 07.05.2022 around 12.30 pm., the associates of Jayachandran, with the help of JCB, demolished the compound wall. The fact, thus, remains that the compound wall has already been demolished even according to the petitioner association and that too, not by the respondents, but by Jayachandran. However, the reply also refers to the fact that after the demolition of the wall, it has been reconstructed by the petitioner association, against which the impugned notice has been issued.

5. The question now remains in regard to the representation to the CMDA for cancellation of the alleged existing road. It is said to be pending consideration before the CMDA. A decision on it is yet to be taken and would have a bearing in the matter as to whether the compound wall could have been erected or not. In any case, so far as the notice to demolish the wall is concerned, interference in it cannot be made unless the road approved by the CMDA is cancelled.

6. Accordingly, the writ petition is disposed of with a direction to the fourth respondent CMDA to consider the representation of the petitioner association in regard to the cancellation of the approval of the road given by the CMDA. The consideration aforesaid may be made within two months from the date of receipt of a copy of this order. The rights of the parties would flow from the outcome of the decision by the CMDA on the representation made by the petitioner association. No costs. Consequently, W.M.P.Nos.13927 and 13928 of 2022 are closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

sra

1. The District Collector,
Kancheepuram District 631 501.
2. The Commissioner,
Kundrathur Panchayat Union,
Padappai 601 301.



3. The President,
Kovur Village Panchayat,
Chennai 600 128.

4. The Chennai Metropolitan Development
Authority (CMDA), Chennai 600 002.

+1cc to Mr.R.Sridhar, Advocate, S.R.No.34468

+1cc to the Government Pleader, S.R.Nos.34560, 34876

+1cc to Mr.R.Sivakumar, Advocate, S.R.No.35216 (20/06/2022)

W.P.No.14744 of 2022

RK(CO)
UMA(17/06/2022)