



WEB COPY



W.P.No.25236 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.25236 of 2019

and

W.M.P.No.24804 & 28400 of 2019

1.K.Swaminathan (Died)

2.S.Rajendran

3.S.Ravi

4.S.Gopal

(P2 to P4 substituted as LR's of deceased sole
petitioner vide order dt 03.08.2022 made in
WMP.16114/2022 in WP.25236/2019 by RSMJ)

..Petitioners

Vs.

1.The District Collector,
Kancheepuram, Kancheepuram District.

2.The Tahsildar,
Tambaram,
Tambaram Taluk,
Kancheepuram District.

3.The Block Development Officer,
Chitalapakkam Panchayat Union,
Chitalapakkam, Chennai – 600 064.



W.P.No.25236 of 2019

WEB COPY

4.The Executive Officer,
Vengaivasal Panchayat,
Kancheepuram District.

5.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajar Building, Egmore,
Chennai – 600 008.

6.CASA GRAND BUILDER PRIVATE LIMITED,
Rep. By its Authorized Signatory,
Having Office at 5th Floor, NPL Devi,
New No.111, Old No.59, L.B.Road,
Thiruvanmiyur, Chennai – 600 041.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari, calling for the records of the 5th respondent pertaining to the impugned letter in No.C3(S)/21857/2018 dated 10.06.2019 and quash the same and consequently direct the 5th respondent to revoke and modify the permission to development granted to the land comprised in Survey Nos.16/1A, 20/1A, 20/1B, 20/1C1, 22/1A, 22/1B, 22/2A1, 22/2B1, 22/3, 24/7, 25/3A & 25/3B by providing accessibility through link roads to the petitioner's agriculture land comprised in Survey Nos.16/1B, 16/3B, 17/7B2, 17/6B, 18/5, 18/2B, 16/3A, 16/1, 16/2A, 17/7A, 18/2A, 16/2B, 22/4B, 22/2C, 17/7B1, 17/8A2, 22/2B2 and other survey numbers situated at Vengaivasal Village, Tambaram Taluk, Kancheepuram District.



W.P.No.25236 of 2019

For Petitioners : Mr.Sankar Ramasamy

For Respondents : Mrs.V.Yamunadevi

Special Government Pleader for R1 to R4

Mr.R.Parthasarathy for R6

Mr.P.Kumaresan,

Additional Advocate General assisted by

Mr.C.N.Vinobha, Standing Counsel for R5

ORDER

The challenge in the writ petition is to the proceedings of the Chennai Metropolitan Development Authority dated 10.06.2019, in and by which, the Chennai Metropolitan Development Authority has rejected the claim of the petitioner seeking access to his agricultural land measuring an extent of about 4.5 acres in S.Nos. 16/1B, 16/3B, 17/7B2, 17/6B, 18/5, 18/2B, 16/3A, 16/1, 16/2A, 17/7A, 18/2A, 16/2B, 22/4B, 22/2C, 17/7B1, 17/8A2, 22/2B2 of Vengaivasal Village, Tambaram Taluk, Kancheepuram District through the lands which are sought to be developed by the 6th respondent herein as a group development after obtaining a planning permission from the Chennai Metropolitan Development Authority.



W.P.No.25236 of 2019

2. The 6th respondent, who is the developer had sought for and obtained sanction for developing a large area which was originally agricultural land, but was re-classified as primary residential zone in the Second Master Plan. The planning permission was sanctioned by the Chennai Metropolitan Development Authority on 24.05.2019 and when the 6th respondent commenced the work, the petitioner made a representation to the Authorities seeking access from the 18 ft scheme road situate on the East of the petitioner's land through the land proposed to be developed by the 6th respondent to reach his land. Reliance was placed by the petitioner on Clause 22 of Rule 27 of the Second Master Plan which deals with the provision of access to lands which would otherwise go without access in view of the development carried out in the neighbouring lands. The said Clause reads as follows:-

(22) In the interest of the public for better circulation in the area and also to ensure that the proposed development does not block access to the properties around, in cases of large developments where link roads have to be provided for connectivity to the adjoining lands/areas, through the site applied for development, the Authority reserves the right to insist the applicant to set



W.P.No.25236 of 2019

apart such road spaces within the site and the applicant shall hand over the same free of cost through a registered gift deed to the authority or Local body designated by it for declaring it as public road. In such cases set back from these roads to the buildings proposed shall be provided as prescribed in these regulations.

3. According to Mr.Sankar Ramasamy, learned counsel appearing for the petitioner this Clause 22 is mandatory and the Planning Authority viz., Chennai Metropolitan Development Authority is bound to ensure that the access is provided to the lands which had access through the land that is proposed to be developed. According to the learned counsel the Chennai Metropolitan Development Authority ought not to have sanctioned the group development plan as proposed by the 6th respondent without providing access to his land which is situate on the West side and South side of the land that is developed by the 6th respondent.

4. By the order impugned, the Chennai Metropolitan Development Authority had rejected the claim of the petitioner on the ground that the land owned by the petitioner which is still being used as an agricultural land has access to the 18ft scheme road through the other land situate on the East of



W.P.No.25236 of 2019

his land. Since the access to the petitioner's land is not completely blocked due to the development work carried out by the 6th respondent, Rule 22 cannot be invoked by the petitioner and the 6th respondent cannot be compelled to provide access to the petitioner, inasmuch as the land belonging to the petitioner would still have access despite the development made by the 6th respondent.

5. Mr.R.Parthasarathy and Mr.T.Gouthaman, learned counsel appearing for the 6th respondent would support the stand of the Planning Authority viz., Chennai Metropolitan Development Authority and submit that unless it is shown that the petitioner's land would not have access to the road through any other means because of the development, the petitioner cannot insist on the 6th respondent to provide an access in the land which is being developed. They would also point out that the Chennai Metropolitan Development Authority had taken care to ensure that such land situate on further North of the project, access to which would be completely blocked because of the development is provided with link road through the project area of the 6th respondent.



W.P.No.25236 of 2019

6. Mr.P.Kumaresan, learned Additional Advocate General

appearing for the Chennai Metropolitan Development Authority would submit that the interpretation placed by the learned counsel for the petitioner on Clause 22 is rather wide. The purport of Clause 22 of Rule 27 is not to force any person developing his land to provide access for land situate in the vicinity of the area subject to development. According to him, the qualifying feature would be that the land belonging to the petitioner should go without access if the development is carried out. In the event the land belonging to the petitioner has access through some other land, then the petitioner cannot insist that, by virtue of Rule 22, the developer should provide an access to him.

7. I have considered the rival submissions. A reading of Rule 22 makes it clear that the planning authority viz., Chennai Metropolitan Development Authority has to ensure that the development will not block access to properties around it. In cases of large development, where link roads have to be provided for connecting adjoining areas, the Authority has right to insist on the applicant to set apart such road space within the site



W.P.No.25236 of 2019

and the same would be handed over free of cost to the local Authority.

WEB COPY

8. While Mr.Sankar Ramasamy would lay thrust on the second part of the Rule, the learned counsel for the respondents would lay stress on the first part of the Rule. In my considered opinion, the Rule has to be read harmoniously. The intendment and purpose behind the provision is that the Development Control Authority viz., Chennai Metropolitan Development Authority has to ensure that no land is left without access because of the development and the second part of the Rule is more towards vesting the land which is set apart as link road with the Municipal Authorities. I am therefore unable to subscribe to the interpretation placed by Mr.Sankar Ramasamy on Clause 22 of Rule 27, which relates to group development.

9. In fact, even in the impugned order which is subject matter of challenge Chennai Metropolitan Development Authority has made it very clear that the petitioner's land has got every chance of getting access when the neighbouring land comes up for development and in the counter affidavit filed by the Member Secretary of the Chennai Metropolitan



W.P.No.25236 of 2019

Development Authority in W.P.No.12862 of 2019, it has been stated that when the neighbouring land comes up for development the land of the petitioner has got every chance of getting access. The relevant portion of the counter affidavit reads as follow:-

Regarding the objection raised to provide access to the petitioner's land it has been decided that as the petitioner's land is a contiguous land mass of vacant land on its south, east and northern side, the land has got every chances of getting access when the neighbouring land comes for developmental approval and hence decided to inform the same to the petitioner.

10. I therefore do not think that the petitioner can claim vested right in requiring access through the particular way unless he claims a right by easement which is not the case on hand. In view of the above I do not think that this Court can interfere with the order of the Chennai Metropolitan Development Authority rejecting the request of the petitioner.

11. The writ petition therefore fails and it is dismissed. It is



W.P.No.25236 of 2019

however made clear that the Chennai Metropolitan Development Authority shall, while considering any approval sought for, for the land in the East side of the petitioner's land, ensure that the petitioner's land gets sufficient access as per the Development Control Rules. No costs. Consequently, connected miscellaneous petitions are closed.

11.08.2022

dsa

Index:No

Internet:Yes

Speaking order



W.P.No.25236 of 2019

To:-

- 1.The District Collector,
Kancheepuram, Kancheepuram District.
- 2.The Tahsildar,
Tambaram,
Tambaram Taluk,
Kancheepuram District.
- 3.The Block Development Officer,
Chitalapakkam Panchayat Union,
Chitalapakkam, Chennai – 600 064.
- 4.The Executive Officer,
Vengaivasal Panchayat,
Kancheepuram District.
- 5.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajar Building, Egmore,
Chennai – 600 008.



WEB COPY



W.P.No.25236 of 2019

R.SUBRAMANIAN, J.

dsa

W.P.No.25236 of 2019
and
W.M.P.No.24804 & 28400 of 2019

11.08.2022