



WEB COPY



W.A. No.4335 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2022

CORAM

THE HONOURABLE Mr.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.A. No.4335 of 2019 and C.M.P. No.27871 of 2019

C.Moorthy

.. Appellant

Vs.

- 1.The District Collector
Chennai District
Singaravelan Building, Chennai - 1
- 2.The Commissioner
Corporation of Chennai
Chennai-3
- 3.The Assistant Commissioner
Zone-12 - Alandur
Corporation of Chennai
Alandur, Chennai - 16
- 4.The Special Tahsildar
Alandur Municipality
Alandur, Chennai - 16

5.R.Jayachandran

.. Respondents

PRAYER : Writ Appeal filed under clause 15 of the Letters Patent to set aside the order of the learned Judge made in W.P. No.21101 of 2019 dated 12.09.2019.



WEB COPY



W.A. No.4335 of 2019

For Appellant : Mr.L.Chandrakumar
For Respondents : Mr.Vadivelu Deenadayalan,
Addl. Govt. Pleader for R1, R4
Mrs.P.T.Ramadevi,
Standing Counsel for R2, R3
Mr.G.Krishnakumar for R5

JUDGMENT

(delivered by R.SUBRAMANIAN, J.)

Aggrieved by the order of the writ court dismissing the writ petition filed by him in his capacity as the President of Kesari Nagar Welfare Association, Adambakkam, Chennai, with costs of Rs.10,000/- the petitioner in the writ petition, has come up with this appeal.

2. The petitioner sought for a mandamus directing the respondents 1 to 4 to pass orders on his representation dated 28.10.2018 and the reminder dated 27.06.2019 seeking cancellation of patta granted to the 5th respondent.

3. The petitioner claimed that the site in question to which patta has been granted to the fifth respondent, was designated as open space in the planning permission of the Alandur Municipality bearing PPA No.273/1973. It was claimed that the patta issued to the said open space, which has been dedicated to the public, should be cancelled.



W.A. No.4335 of 2019

4. The fifth respondent resisted the writ petition contending that the land in question was never reserved for public purpose, but it was meant for Kalyana Mandapam and in fact, he has put up a Kalyana Mandapam in the said area. The fifth respondent had made a representation to the CMDA to convert the area reserved for Kalyanamandapam into residential plots, which was rejected by the CMDA and the appeal against the said order before the Housing and Urban Development Department, was rejected by the Government vide G.O. Ms. No.195 dated 19.12.2016. It is thereafter, the CMDA has granted the planning permission for putting up a Kalyana Mandapam in the said site, which is reserved for Kalyana Mandapam.

5. The writ court, considering the counter filed by the 5th respondent, in which it been has specifically stated that the site in question was never reserved for public purpose, it was allotted for a Kalyana Mandapam in the original lay out plan and it has now been used for the said purpose only, and taking note of the conduct of the petitioner in sending repeated representations to the authorities, dismissed the writ petition with costs of Rs.10,000/-.

6. Mr.L.Chandrakumar, learned counsel appearing for the appellant, would vehemently contend that the writ court erred in



W.A. No.4335 of 2019

dismissing the writ petition, which was only for a mandamus to consider the representation for cancellation of a patta. According to the learned counsel, in the original lay out, the plot in question was shown as open space or a public utility. It was subsequently converted as a plot reserved for Kalyana Mandapam. It is this conversion, which had happened illegally and hence, the fifth respondent should not be allowed to enjoy the benefit of such conversion. The counter filed by the 5th respondent in the writ petition itself would demonstrate that the said contention of the petitioner cannot be correct. The CMDA respondent has very categorically stated that this plot in question was never allotted for any public purpose and it was reserved only for a Kalyana Mandapam and the request for conversion of the same into residential plots was rejected by the CMDA as late as 2016 and the said order was confirmed in 2018. We, therefore, do not see any reason to interfere with the dismissal of the writ petition by the writ court.

7. Mr.L.Chandrakumar, learned counsel appearing for the appellant would submit that the direction to pay costs is onerous, particularly, in view of the fact that the petitioner was only attempting to espouse the public cause and he was not attempting to make any illegal gain out of the litigation.



W.A. No.4335 of 2019

8. Mr.G.Krishnakumar, learned counsel appearing for the fifth respondent would submit that the direction to pay costs may be waived taking a liberal view. Accepting the said submission, the writ appeal is partly allowed. While confirming dismissal of the writ petition, the direction to pay costs alone shall stand deleted. No costs. Consequently, the connected civil miscellaneous petition is closed.

[R.S.M., J.] [K.B., J.]
20.10.2022

Index : Yes / No
Asr

To

- 1.The District Collector
Chennai District
Singaravelan Building, Chennai - 1
- 2.The Commissioner
Corporation of Chennai
Chennai-3
- 3.The Assistant Commissioner
Zone-12 - Alandur
Corporation of Chennai
Alandur, Chennai - 16
- 4.The Special Tahsildar
Alandur Municipality
Alandur, Chennai - 16
- 5.The Government Pleader
High Court, Madras



WEB COPY



W.A. No.4335 of 2019

R.SUBRAMANIAN, J.
AND
K.KUMARESH BABU, J.

Asr

W.A. No.4335 of 2019 and
C.M.P. No.27871 of 2019

Date : 20.10.2022