



WEB COPY



W.P.Nos.16930 of 2016 and 25788 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2023

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.Nos.16930 of 2016 and 25788 of 2018
and W.M.P.Nos.14499 of 2016, 29991, 7849 & 29996 of 2018

Endiyur Village Pandchyat
Endiyur Village
Tindivanam Taluk
Villupuram District
Rep by its President
K.P.Munusamy

.. Petitioner in W.P.No.16930 of 2016

V.Munusamy

.. Petitioner in W.P.No.25788 of 2018

Versus

1. The Director of Town and Country
Planning Department
No.807 Anna Salai
Chennai – 02

2.The Regional Deputy Director
Town and Country Planning Development
Villupuram Region
Villupuram

3.The Executive Engineer
Tamilnadu Electricity Board
Tindivanam
Villupuram District

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4. Sub-Registrar
Joint No.I
Tindivanam
Villupuram District

5.Vidhyachand (Died)

6.V.Vimalabai

7.V.Pankaj

8.V.Priyanka

(R6 to R8 substituted as LR's of the deceased fifth respondent
vide Order dated 12.12.2022 made in W.M.P.No.12375/2022 in
W.P.No.16930/2016)

.. Respondents in W.P.No.16930 of 2016

1. The Director of Town and Country
Planning Department
No.807 Anna Salai
Chennai – 02

2.The Regional Deputy Director
Town and Country Planning Development
Villupuram Region
Villupuram

3.The Executive Engineer
Tamilnadu Electricity Board
Tindivanam
Villupuram District

4. Sub-Registrar
Joint No.I
Tindivanam
Villupuram District

5.Vidhyachand (Died)

6.V.Vimalabai

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7.V.Pankaj

8.V.Priyanka

(R6 to R8 substituted as LR's of the deceased fifth respondent vide Order dated 12.12.2022 made in W.M.P.No.1056/2021 in W.P.No.25788/2018)

9.The Block Development Officer

Marakkanam Panchayat Union

Marakkanam and Taluk

Villupuram District.

(R9 impleaded vide Order dated 12.12.2022 made in W.M.P.No.7754/2019 in W.P.No.25788/2018) .. Respondents in W.P.No.25788 of 2018

Prayer in W.P.No.16930 of 2016: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 3 to take action restraining the 4th respondent from erecting constructing or converting or laying and residential activities in Survey Nos.88/1A,1B,89/1,90/4,5,6,91/6,92/1,2,93,94/1,2,3A,4,95/1A1 and in the name and style of Sriram Nagar and to maintain the usage of land as an agricultural area until and unless the conversion of the land.

Prayer in W.P.No.25788 of 2018: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to calling for the records of the second respondent in Na.Ka.No.3828/2018/V.M. dated 06.09.2018 and quash the same and consequently restrain the fifth respondent from erecting constructing or converting or laying and residential activities in Survey Nos.87/1,87/2,87/3,88/1B,89/1,90/4B, 5,6,91/6,92/1,2,93,94/1,2,3A,4,95/1A1 and in the name and style of Sriram Nagar and to maintain the usage of land as an agricultural area.

For Petitioners : Mr.C.Prakasam in W.P.No.25788 of 2018
Mr.R.S.Selvam in W.P.No.16930 of 2016

For Respondents : Mr.V.Nanmaran for R1, 2 & 4 (both WPs)
Mr.Venkata Seshaiya for R3
R5 - Died
Mr.A.Swaminathan for R6 to R8



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COMMON ORDER

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2. The case of the writ petitioners are that the fifth respondent started to promote the survey land in Survey Nos.88/1A, 1B, 89/1, 90/4, 5,6,91/6,92/1,2,93,94/1,2,3A,4,95/1A1 as a residential layout in the name and style of Shriram Nagar by erecting stones. Even though the survey lands are private Ryotwari lands and they are the integral part of the Yeri. They are water shed and serves as a make out channels to source the egress and ingress of the rainwater drainage from the village and for drawing agricultural water into the village and to the nearby areas. Challenging the promotional activities and the approval granted to the fifth respondent by the second respondent, these writ petitions are filed.



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3. The learned counsel for the respondents 1, 2 & 4 submitted that originally the plots were unapproved plots. Pursuant to the G.O.Ms.No.78, Housing and Urban Development [UD4(3)] Department dated 04.05.2017, layout has been approved by the respondents 1, 2 and 4. Therefore, admittedly, it is only the agricultural lands and the approval has been granted only after following the procedure as stipulated in the above Government Order. Hence, the petitioners cannot maintain these writ petitions.

4. The learned counsel for the petitioners' main submission is that since the subject lands are agricultural lands, the certificate or status report from the concerned Tahsildar that the layout is not obstructing the waterways on the common field irrigation channels on the ground and flood level or inundation status ought to have obtained before approving the layout. Whereas, no such inspection were carried out and the layout has been approved by the callous attitude of the respondents.

5. The learned counsel for the respondent 6 to 8 submitted that subject unapproved plots were approved and the same were regularized as



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per the G.O.Ms.No.78, Housing and Urban Development [UD4(3)]

Department dated 04.05.2017.

6. Heard both sides and perused the materials placed on record.

7. On perusal of the Rule 5 of the above Government Order, Sub-Clause 9 (a) deals with the regularisation of unapproved individual plot in a sub-division or layout, it means that a Certificate or Status Report from the concerned Tahsildar be obtained indicating that the layout is not obstructing the waterways on the common field irrigation channels on the ground and flood level or inundation status. Sub Clause 9(b) deals with the regularisation of unapproved layout, wherein, clause (i) to (vi) does not speak anything about status report of the Tahsildar. What is required is only necessary copies, sketches and encumbrance certificate, latest Patta, Permanent Land Records and Field Measurement Book sketches etc., Therefore, the contention of the petitioner that the layout has been approved without following the Rules cannot be countenanced.



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8. Admittedly, even in the petition it is averred that it is agricultural lands, wherein, layout has been already developed. Therefore, this Court does not find any merits. It appears that these writ petitions have been filed with oblique motive to stall the entire development.

9. Accordingly, in view of the above discussion, these writ petition stands dismissed. However, the proposed respondents 6 to 8 are directed to execute the gift deed in favour the local panchayat for the purpose of creating road and other OSR (Open Space Reservation) areas. No costs. Consequently, connected miscellaneous petitions are closed.

06.01.2023

dhk

To,
1. The Director of Town and Country
Planning Department
No.807 Anna Salai
Chennai – 02

2.The Regional Deputy Director
Town and Country Planning Development
Villupuram Region
Villupuram

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N.SATHISH KUMAR, J.

dhk

3.The Executive Engineer
Tamilnadu Electricity Board
Tindivanam
Villupuram District

4. Sub-Registrar
Joint No.I
Tindivanam
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5.The Block Development Officer
Marakkanam Panchayat Union
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