



W.P.No.5420 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2023

CORAM

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition No.5420 of 2023

BSCPL Infrastructure Limited
(Project Name: Bollineni Hill side & Co. Ltd.)
Rep. by its Authorised Signatory S.Ganesh
Nookampalayam, Perumbakkam
Sithalapakkam Lake Road
Chennai 600 126.

.. Petitioner

Vs.

1. The District Collector
Chengalpet District
Chengalpet.
2. Tahsildar
Tambaram
Chengalpet District.
3. Revenue Inspector
Medavakkam (Sub Circle)
Tambaram, Chengalpet District.
4. Chennai Metropolitan Development Authority
Thalamuthu-Natarajan Maaligai
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008.

.. Respondents



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Prayer: Writ Petition under Article 226 of the Constitution of India praying for a writ of Certiorari calling for the records of the second respondent in Na.Ka.5989/2023/A4 dated 17.02.2023 and to quash the same and forbearing the respondents 1 to 3 not to interfere with the peaceful and enjoyment of their land in S.No.416/1 in Perumbakkam Village, Tambaram Circle, Chengalpet District.

For the Petitioner : Mr.R.Singaravelan
Senior Counsel
For Mr.M.Baskar

For the Respondents : Mr.J.Ravindran
Additional Advocate General
Assisted by
Mrs.R.Anitha
Special Government Pleader
for Respondents 1 to 3

Mr.C.N.Vinobha
Standing Counsel
for Respondent-4

ORDER

(Made by the Hon'ble Acting Chief Justice)

The petitioner has filed this writ petition challenging the impugned order dated 17.02.2023 passed by the second respondent and seeking to forbear the respondents 1 to 3 not to interfere with the peaceful possession and enjoyment of the land in S.No.416/1 in



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Perumbakkam Village, Tambaram Circle, Chengalpet District.

2. The petitioner, a registered company, has purchased the lands of an extent of 19 acres and 22 cents in S.Nos.414/2B-6, 414/2B7, 414/2B8, part (Present No.414/12 as per patta No.1028), 414/2B10, 414/2B-12, 415/1B, 415/1C, 415/2, 416/1, 416/2, 416/6, 416/7, 417/1, 417/2, 420/2 part, 513 and 519, Perumbakkam Village, Tambaram Taluk. The said lands were originally purchased in the name of B.Seenaiah & Co. (Projects) Ltd. Subsequently, it was changed to the petitioner's name, i.e. M/s. BSCPL Infrastructures Limited. Thereafter, it is in continuous possession and enjoyment of the said lands and has used it for construction purposes, including S.No.416/1. It has constructed two buildings for office purpose and two DG Electric Generators in S.No.416/1, after obtaining planning permission from the then MMDA in PPD/LO No.144/94 vide their Planning Permission No.375 dated 08.09.1995.

3. On 24.02.2022, the third respondent issued a notice to the petitioner, under Section 7 of the Tamil Nadu Land Encroachment Act,



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1905 alleging that it had encroached the Government land in S.No.416/1 to an extent of 0.30.5 acres. On receipt of the same, the petitioner produced registered sale deeds, electricity receipts, property tax receipts etc. before the third respondent to show that the land in question belongs to it. However, on 16.05.2022, the second respondent issued a notice under Section 6 of the Act directing the petitioner to vacate the land in S.No.416/1 and thereafter, issued notice in Na.Ka.No.8464/2017/A4 dated 15.12.2022 stating that the petitioner would be forcibly evicted on 21.12.2022 if it did not vacate the land in question.

4. Aggrieved by the said notice, the petitioner filed W.P.No.34310 of 2022 and the same was disposed of on 20.12.2022 directing the second respondent to pass a speaking order, after considering the reply of the petitioner dated 16.12.2022 and any document produced by it. After hearing the petitioner on 15.02.2023, the second respondent passed the impugned order. Hence, the above writ petition.

5. Learned Senior Counsel appearing for the petitioner submitted



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that the land in question is classified as "Tharisu" and therefore, the petitioner is entitled to file an appeal under Section 10 of the Act before the District Collector.

6. Learned Senior Counsel further submitted that till the statutory appeal is filed and disposed of, the respondents may be enjoined from evicting the petitioner from the land in question.

7. Learned Additional Advocate General, on instructions, submitted that around 85% of the encroached portion of the land in question has already been demolished, pursuant to the impugned order passed as per the direction of this Court dated 20.12.2022 made in W.P.No.34310 of 2022.

8. Learned Additional Advocate General further submitted that the time to file statutory appeal would expire on 16.03.2023 and that if the petitioner files the statutory appeal before 16.03.2023, the same would be considered by the first respondent.



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9. Considering the submissions made on behalf of both the parties, the writ petition is disposed of, directing the first respondent to consider the statutory appeal, if filed by the petitioner on or before 16.03.2022, and pass orders, on merits and in accordance with law. Till then, the respondents shall maintain status quo in respect of the area yet to be demolished. There will be no order as to costs. Consequently, WMP Nos.5437 and 5440 of 2023 are closed.

(T.R., ACJ.) (D.B.C., J.)
21.02.2023

Index : Yes/No

Neutral Citation : Yes/No

kpl

To

1. The District Collector, Chengalpet District, Chengalpet.
2. Tahsildar, Tambaram, Chengalpet District.
3. Revenue Inspector
Medavakkam (Sub Circle)
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and
D.BHARATHA CHAKRAVARTHY,J
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