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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.Nos.30558 & 31152 of 2015
and
M.P.Nos.1 & 1 of 2015

W.P.No.30558 of 2015

Vasantha ... Petitioner

Vs.

1.The Commissioner,
Corporation of Chennai,
Ribon Building,
Chennai.

2.The Chennai Metropolitan Development Authority,
Rep., by its Member Secretary,
Thalamuthu Natarajan Maaligai,
Gandhi-Irwin Road,
Egmore, Chennai – 600 008.

3.M.Sundaram Achari
4.Dhanapal ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 and 2 herein to cancel the planning permission granted in respect of the property situated at Door No.5 and Door No.5-B, Paper Mills Road, Peravallur Village, Chennai – 600 082 comprised in Old Survey No.252 (part), T.S.No.2/2 and a part in plot No.8-A in Block No.33, measuring about 2069 sq.ft to the respondents 3 and 4 herein.

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For Petitioner : Mr. C. Jagadish

For Respondents : Mrs. P.T.Ramadevi, for R1
Standing Counsel
Mrs. P.Veena Suresh, for R2
No Appearance for R3 & R4

W.P.No.31152 of 2015

1.Dhanalakshmi
2.Parthiban
3.Vasantha
4.Chandra ... Petitioners

Vs.

1.The Commissioner,
Corporation of Chennai,
Ribon Building,
Chennai.

2.The Chennai Metropolitan Development Authority,
Rep., by its Member Secretary,
Thalamuthu Natarajan Maaligai,
Gandhi-Irwin Road,
Egmore, Chennai – 600 008.

3.Gopalakrishnan
4.Vivekanandan ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 and 2 herein not to issue the planning permission and other necessary certificates for putting up any construction, in respect of the property at old door No.3, new No.7, Paper Mills Road, Peravallur Village, Chennai – 600 082, comprised in Old S.No.252 (part), T.S.No.2/7 in Block No.33, measuring about 0.05.95 Ares to the respondents 3 and 4 herein.

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For Petitioners : Mr. C. Jagadish

For Respondents : Mrs. P.T.Ramadevi, for R1
Standing Counsel
Mrs. P.Veena Suresh, for R2
Not ready in notice - R3 & R4

COMMON ORDER

The writ petitions have been filed for the issue of Writ of Mandamus (i) directing the respondents 1 and 2 herein to cancel the planning permission granted in respect of the property situated at Door No.5 and Door No.5-B, Paper Mills Road, Peravallur Village, Chennai – 600 082 comprised in Old Survey No.252 (part), T.S.No.2/2 and a part in plot No.8-A in Block No.33, measuring about 2069 sq.ft to the respondents 3 and 4 herein and (ii) directing the respondents 1 and 2 herein not to issue the planning permission and other necessary certificates for putting up any construction, in respect of the property at old door No.3, new No.7, Paper Mills Road, Peravallur Village, Chennai – 600 082, comprised in Old S.No.252 (part), T.S.No.2/7 in Block No.33, measuring about 0.05.95 Ares to the respondents 3 and 4 herein.

2. The writ petitions are proceeded as if the petitioners are the owners of the property. However, the planning permission has been granted to the respondents.

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3. According to the learned counsel appearing for the petitioner, despite the fact that a partition suit is pending between the petitioners and the siblings, the planning permission has been granted.

4. Whereas, the learned counsel appearing for the respondents would submit that the petitioners' job is to blackmail others. According to him, the respondents are absolute owners and only on production of the documents, the planning permission has been granted.

5. Learned counsel for the first respondent would submit that only upon perusal of the documents, planning permission has been granted.

6. On perusal of the entire documents, there is no whisper whatsoever, when the planning permission was granted and the building is constructed. In the writ petition in para 5, it is clearly stated that 3 floors in plot no.5 and 2 floors in plot no.5b, have been constructed long back.

7. In such view of the matter, without further details as to the nature of planning permission and when it was granted, no relief can be granted by this Court. Mere pendency of some partition suit, will not be a bar to consider the documents by

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the authorities. The authorities considered the documents and granted permission on being satisfied about the right, title in the property. As a matter of right, the petitioner cannot seek for cancellation of such permission.

8. As this Court has observed above, without establishing any right or title in the property, the writ petitioners cannot seek any relief to prevent rightful owners from enjoying the property. Hence, I do not find any merits in these writ petitions.

9. Accordingly, the writ petitions are dismissed. Consequently connected miscellaneous petitions are closed. No costs.

31.01.2023

Index :Yes/No
Speaking Order / Non-Speaking Order

AT

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N.SATHISH KUMAR, J.

AT

To
1.The Commissioner,
Corporation of Chennai,
Ribon Building,
Chennai.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maaligai,
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