



WEB COPY



W.P.No.6365 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2023

CORAM:

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
AND
THE HONOURABLE MRS.JUSTICE N.MALA**

**W.P. No.6365 of 2020
and
W.M.P.Nos.7510 & 7512 of 2020**

M.Krishnamurthy

... Petitioner

Vs.

1. The Commissioner,
Thiruverkadu Municipality,
Thiruverkadu,
Chennai 600 077.

2. V.Pappaiyan
S/o Late Vedachalam Udayar.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 1st respondent to take all steps immediately, as per the provisions of Tamil Nadu Country and Town Planning Act, so as to prevent the 2nd respondent from putting up any



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manner of construction, without obtaining any necessary planning permit and building plan approval from the 1st respondent in his property, being the site measuring 16 feet East to west and 33 feet North to South that in all measuring 528 sq.ft. in Grama Natham S.No.4/1, situated in Pillaiyar Koil Street, Perumalagaram Village, Vada Noombal, Madhura, Ambattur Taluk, Thiruvallur District and also in the common pathway lying to the east of his property.

For Petitioner : Mr.Krishnasamy.R.

For Respondents : Mr.P.Gurunathan,
Additional Government Pleader
for R1
Mr.K.Balaji for R2

ORDER

This writ petition has been filed seeking for a Writ of Mandamus to direct the 1st respondent to take all steps immediately, as per the provisions of Tamil Nadu Country and Town Planning Act, so as to prevent the 2nd respondent from putting up any manner of construction, without obtaining any necessary planning permit and building plan approval from the 1st respondent in his property, being the site measuring 16 feet East to west and 33 feet North to South that in all measuring 528 sq.ft. in Grama Natham S.No.4/1, situated in Pillaiyar Koil Street, Perumalagaram Village, Vada



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Noombal, Madhura, Ambattur Taluk, Thiruvallur District and also in the common pathway lying to the east of his property.

2. The case of the petitioner is that one Vaithi Udayar purchased the subject property among other properties through a sale deed dated 26.04.1928 and it was registered before the Saidapet Sub Registrar under Deed No.774/1928. The said Vaidi Udayar died leaving behind his two sons via, Vedachala Udayar and Ganesh Udayar. After the demise of Vaithi Udayar, his two sons made a oral partition and 'A' schedule was allotted to Vedachala Udayar. Vedachala Udayar enjoyed the same as absolute owner and died on 30.01.1987, leaving behind his wife Mogambari and three sons viz., V.Anandan, V.Pappiyan, 2nd respondent herein and V.Haridas, (petitioner's vendor) as his legal heirs. The said L.Rs of Vedachala Udayar divided the movable and immovable properties of Vedachala Udayar by a registered Deed of Partition dated 15.12.2003. The petitioner purchased the house site from Haridas through Sale Deed dated 03.12.2023. The 'E' schedule property in the said Partition Deed dated 15.12.2003 was in peaceful possession and enjoyment of the said Haridoss. Subsequently, the said Haridass sold his share of house site to the petitioner under Sale deed



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dated 03.12.2012 and from the date of purchase, the petitioner is in peaceful possession and enjoyment of the same. While so, recently, the 2nd respondent started to put up construction in his own allotted site as well as over the common pathway lying adjacent to his property which is common to all the sharers including the petitioner's vendor, to which, the petitioner is also entitled to. But the 2nd respondent proposed construction an unauthorized construction. The 2nd respondent also attempted to encroach into the common pathway referred to in the partition deed. When the petitioner approached the 1st respondent to prevent the 2nd respondent from proceeding with the illegal construction, the 1st respondent did not give proper reply. Hence, the present writ petition.

3. When the matter came up on earlier occasion, the learned counsel for the respondent would state that the matter has been compromised between the parties and the petitioner has also sold the property to third party and the learned counsel for the petitioner sought time to verify the same.

4. Today, the learned counsel for the petitioner would state that he did not receive any instructions from the petitioner.



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5. Considering the submissions made by the learned counsel for the respondent that the matter has been compromised between the parties and that the petitioner has also sold the property to third party (copy of the Sale Deed, dated 25.11.2020 executed by the petitioner produced), it can be presumed that the petitioner is not interested to adjudicate the matter further and therefore, the Writ Petition stands closed. No costs. Consequently, connected miscellaneous petitions are closed.

(J.N.B., J.) (N.M., J.)

04.08.2023

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No

vsi

To
The Commissioner,
Thiruverkadu Municipality,
Thiruverkadu,
Chennai 600 077.



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J.NISHA BANU, J.,
and
N.MALA, J.,

vsi

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