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W.P.No.9648 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9648 of 2023

M.Selvabanumathi
W/o.Muralidharan,
216A, Green Palace,
Lake Road, Kumuli,
Peerumedu Tekkadi Post,
Kerala State Pincode 685 536
Principal and Represented
by her Power Agent
S.Sivakumar
S/o.C.Selvaraj,
63/B, Jones Road,
F-22, Temple View Apartment,
Saidapet, Chennai – 600 015.

...Petitioner

Vs.

- 1.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai – 600 003.
- 2.Zonal Officer / The Assistant Commissioner,
Zone 11, Greater Chennai Corporation,
33, Arcot Road, Valasarawakkam,
Chennai – 600 003.



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3.The Superintending Engineer,
(Electricity & Planning),
Town Planning Department,
Greater Chennai Corporation,
Amma Maligai, Chennai – 600 009.

4.Mr.S.Madhusudhanan Power Agent of
Mrs.M.G.Sunitha
No.21, Sri Balaji Nagar,
Valasaravakkam, Chennai – 600 083.

5.Mr.R.Sathish

6.Mrs.S.Lalasa

7.AXIS Bank Ltd.,
Inter-Alia @ Centennial Square
2nd Floor, No.64, Dr.Ambedkar Road,
Chennai – 600 024.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to Sub Division made in SD/WDCN11/00511/2020 dated 03.02.2021 in Sub Division of Plot No.22, Sri Balaji Nagar, Valasaravakkam, Chennai by 3rd respondent, quash the same.

For Petitioner : Mr.S.R.Rajagopal
Senior Counsel
For Mr.R.Arunmozhi

For R1 to R3 : Mr.E.C.Ramesh
Standing Counsel
For Greater Chennai Corporation



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ORDER

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The order dated 03.02.2021, granting Sub Division of Plot No.22, Sri Balaji Nagar, Valasaravakkam, Chennai, based on the application submitted by the 4th respondent is under challenge in the present writ petition.

2. The petitioner states that he is the Power Agent of Smt.Selvabanumathi, W/o.Muralidharan and entitled to sue as an Agent. Originally Survey No.1/1 to an extent of 62 cents belonged to K.K.Traders, Madras and its Partners Mr.V.K.Krishnapandian and B.C.Kishin and they have purchased the same from one Mr.Mareesan, Son of Selvanatha Naicker by way of Sale Deed dated 25.09.1974 and Document No.3896 of 1974 of Sub Registrar, Kodambakkam, Madras. The petitioner further states that K.K.Traders was formed to sold out the land after dividing into plots and got approval from Local Authority. Layout was formed during the year 1974 in the name of Sri Balaji Nagar in Survey No.1/1 in the area of Valasaravakkam by dividing the said land into vacant house sites and obtained approval for the same DDTP Chengalpattu vide 202 of 1974.



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Mr.V.K.Krishnapandian of K.K Builders sold out some plots to various persons and also registered a Sale Deed in favour of the Purchaser. Plot No.22 measuring 2250 sq.ft in Survey No.1/1 was sold out to one Mrs.K.Sakila by V.K.Krishnapandian as Sole Proprietor of K.K.Builders under the Sale Deed vide Document No.4790/1995 dated 01.12.1995.

3. The petitioner states that he is the lawful owner of the subject plot, which is sub-divided without his knowledge and in the absence of an opportunity for adjudication to the petitioner.

4. The learned Senior counsel appearing on behalf of the petitioner mainly contended that the unilateral Sub Division effected by the Corporation without providing an opportunity to the petitioner would cause prejudice to his ownership and thus, an adjudication becomes imminent. When an application has been filed, the Corporation ought to have invited objections from the other owners, since it is a larger extent of property, which is sought to be sub-divided by submitting an application at the instance of the 4th respondent.



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5. The learned counsel appearing on behalf of the respondent /

Chennai Corporation made a submission that the order was passed based on the application and the documents filed by the applicant. At the time of passing the order of sub-division, the Corporation Authorities had no knowledge about the other owners or otherwise. Therefore, based on the application and documents, they have disposed of in accordance with Section 49 of the Tamil Nadu Town and Country Planning Act, 1971. Thus, the authorities have not committed any irregularity.

6. Considering the arguments, this Court is of the considered opinion that the 4th respondent submitted an application, seeking sub-division under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971. The authorities had no knowledge about the other owners or title holders in respect of the subject property and based on the details provided in the applications and documents, they have passed order, granting sub-division. However, the writ petitioner has now raised an objection that he is the owner of the land and the 4th respondent by suppressing the fact, filed the application seeking sub-division.



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7. This being the objections now raised before this Court, the petitioner is entitled for an opportunity. Without causing any prejudice to any of the parties claiming ownership, the authorities competent has to conduct an enquiry and thereafter, take a decision on merits and in accordance with law. The petitioner is at liberty to re-submit the objections already submitted before the authorities in respect of the sub-division order passed by the respondent in proceedings dated 03.02.2021 within a period of one week from the date of receipt of a copy of this order. In the event of receiving any such objections from the petitioner within a period of one week from the date of receipt of a copy of this order, the 1st respondent shall adjudicate the issues on merits and in accordance with law by affording an opportunity to all the parties concerned and thereafter, pass final orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.



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8. Till such time the revised final orders are passed by the 1st respondent, the order impugned passed by the 3rd respondent in proceedings SD/WDCN11/00511/2020 dated 03.02.2021 is kept in abeyance and accordingly, the writ petition stands disposed of. No costs.

03.04.2023

Index : Yes
Speaking order
Neutral Citation: Yes
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To

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Rippon Buildings, Chennai – 600 003.
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S.M.SUBRAMANIAM, J.

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