



W.P.No.12622 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2023

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition No.12622 of 2020

Mandava Holdings Private Limited
Rep. by its Authorised Signatory
S.N.Krishnamurthy
No.103, Classic Gardens
Kumarasamy 2nd Street
Rajiv Gandhi Salai (OMR)
Sholinganallur, Chennai 600 119.

.. Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu
Housing and Urban Development (UD4-1) Department
Fort St. George
Chennai 600 001.
2. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu-Natarajan Maaligai
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008.
3. The Member Secretary
Directorate of Town & Country Planning
Chengalvarayan Building, Fourth Floor
No.807, Anna Salai, Chennai 600 002.



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4. The Member Secretary
Mamallapuram Local Planning Authority
Five Radhas Commercial Complex
Mamallapuram 603 104.
5. The District Collector
First Floor, Collectorate
Kancheepuram 631 501
Kanchipuram District.
6. The Executive Officer
Thiruporur Town Panchayat
No.179, Old Mahabalipuram Road
Thiruporur 603 110
Kanchipuram District.
7. The Tahsildar
Thiruporur Taluk, Near BDO Office
Chengalpattu Road, Thiruporur
Kanchipuram 603 110.
8. The Special Officer
Navalur Panchayat & Village
Navalur 603 103
Kanchipuram District.
9. The Sub Registrar
Sub Registrar Office - Thiruporur
29, South Mada Street
Thiruporur 603 110
Kanchipuram District.
10. The District Registrar
District Registrar Office - Chengleput
No.13, Varadharajanar Street
Vedachala Nagar, Chengleput 603 001.



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11.The Inspector General of Registration
100 Santhome High Road
Santhome, Chennai 600 028.

12.Olympia Infra Tech (P) Ltd.
Plot No.1, Sidco Industrial Estate
Guindy, Chennai
Tamil Nadu 600 032.

13.M.Ramesh

14.V.Senapathy .. Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a writ of Declaration to declare that the constructions and developments made by the 12th respondent in S.Nos.5/2, 6/1A, 6/1B, 6/2, 6/3A, 6/3B, 6/5A, 6/5B, 6/6A, 6/6B, 7/1, 8, 9/1, 9/2, 10, 11/1A, 11/1B1, 11/1B2, 12/1, 12/3, 12/4, 18/1A, 18/1B, 28/1, 31/4A, 20/9A, 20/9B, 20/9C, 3/2 Part and 3/3 Part at Navalur Village, Thiruporur Taluk, Kancheepuram District pursuant to the Planning approvals granted by the authorities, are in violation of the Town and Country Planning Act and Rules framed thereunder from time to time and consequently, direct the respondents 1 to 8 herein to demolish all the illegal structures and developments therein and take possession and complete control of all public lands, Public Parks, public roads and water bodies encroached by 12th respondent, by providing access to the same directly through the existing public road, i.e. Old Mahabalipuram Road, and to file a compliance report to this Hon'ble Court within a time stipulated by this Hon'ble Court.



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For the Petitioner : Mr.P.S.Raman
Senior Counsel
For Mr.J.Ravikumar

For the Respondents : Mr.J.Ravindran
Additional Advocate General
Assisted by
Mr.P.Muthukumar
State Government Pleader
for Respondents 1, 3 & 5 to 7

Ms.Veena Suresh
for Respondent-2

Mr.D.Suriyanarayanan
For Respondents 4 & 8

Mr.P.Sathish
For Respondents 9 to 11

Mr.AR.L.Sundaresan
Senior Counsel
For Mr.Karthik Lakshmanan
for Respondent-12

No appearance
for Respondents 13 & 14

ORDER

(Made by the Hon'ble Acting Chief Justice)

The petitioner seeks a declaration to declare the constructions put up by the 12th respondent S.Nos.5/2, 6/1A, 6/1B, 6/2, 6/3A,



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6/3B, 6/5A, 6/5B, 6/6A, 6/6B, 7/1, 8, 9/1, 9/2, 10, 11/1A, 11/1B1, 11/1B2, 12/1, 12/3, 12/4, 18/1A, 18/1B, 28/1, 31/4A, 20/9A, 20/9B, 20/9C, 3/2 Part and 3/3 Part at Navalur Village, Thiruporur Taluk, Kancheepuram District, are in violation of the Town and Country Planning Act and Rules framed thereunder and to demolish the same and to take possession of the public lands, parks, roads and waterbodies encroached by the 12th respondent and to provide access to the same.

2. The petitioner is a company registered under the Companies Act, 1956 and engaged in the business of developing house sites, real estate and building and construction activities. It owns agricultural lands of an extent of 18.41 acres at Navalur Village, Thiruporur Taluk, Kancheepuram District. The 12th respondent also owns lands adjacent to the petitioner's lands. The petitioner's lands are locked on the East by Buckingham canal and on the West by the lands of 12th respondent. A pond is also lying adjacent to the petitioner's lands and 12th respondent's lands.



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3. According to the petitioner, his lands and pond are between the Buckingham Canal and the lands of the 12th respondent. Therefore, the petitioner has no access to Old Mahabalipuram Road except through the lands belonging to the 12th respondent. Though the 12th respondent, in order to obtain Planning Permission to develop its lands, executed Gift Deeds in favour of the eighth respondent towards OSRs to be utilised as a part of public utility, there is no access to the public to OMR, park and pond.

4. In order to obtain Planning Permission, a temporary road laid by the 12th respondent on the banks of Buckingham canal was declared illegal by the National Green Tribunal vide order dated 10.12.2015 in A.No.284 of 2014 and A.No.156 of 2015 and therefore, the same has been removed. The 12th respondent has, thus, encroached the public road, public park and pond and has been using the same as private parking space, private tennis court, drive way and private lake.

5. The petitioner made a representation to the third respondent



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on 13.03.2018 seeking to provide access to it by removing the compound wall put up by the 12th respondent, in violation of the planning permission, thereby blocking access to its land. The said representation was forwarded to the fourth respondent on 19.03.2018 for taking appropriate action, which was in turn, forwarded to the seventh respondent on 16.04.2018 for necessary action and thereafter, to submit a report to the fourth respondent.

6. The seventh respondent submitted its report on 25.05.2018 stating that the 12th respondent has constructed the compound wall surrounding the lands of the petitioner and the pond. Though the said report was forwarded to the third respondent on 13.06.2018, no action has been taken. Hence, the above writ petition.

7. Considering the facts of the case and the submissions made by both the parties, this Court, by order dated 11.11.2022, directed the Revenue Divisional Officer, Chengalpattu to inspect the property in question, in the presence of the petitioner and the 12th respondent and to file a status report in respect of OSR Nos.I to IV and also the



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existence of access to pond.

8. Mr.P.Muthukumar, learned State Government Pleader submitted that the direction of this Court dated 11.11.2022 has been complied with and a status report has been filed on 02.12.2022.

9. Mr.P.S.Raman, learned Senior Counsel appearing for the petitioner submitted that in the status report filed by the Sub Collector, Chengalpattu, though it is stated that there is no encroachment in the subject land, it is also stated that a compound wall has been constructed with a gate in S.Nos.6/6A, 6/6B, 7/1, 7/2 and 12/2, restricting use of the public road. Further, it is stated that the 12th respondent has encroached the waterbody to an extent of 192.0 sq.m. in the northern side and using the same as car parking. He, therefore, submitted that a direction may be given to the Director of Town and Country Planning to remove the encroachment and also the gate to the public to have access.

10. Admittedly, as per the status report filed pursuant to the



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order of this Court dated 11.11.2022, the 12th respondent has constructed the compound wall without obtaining any prior permission and also using the waterbody as car parking area.

11. In view of the above, the Director of Town and Country Planning is directed to remove the encroachments made by the 12th respondent by way of construction of compound wall, gate and parking space, after issuing notice to the petitioner and the 12th respondent. Further, the waterbody (pond) has to be restored and kept open for the public.

12. The revenue authorities and the local body are also directed to take physical possession of all OSR lands, waterbody and the roads to be provided within the site of the 12th respondent, declare the same as public land and public road and to make necessary changes in the revenue records.

13. All the above exercises shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.



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14. The writ petition is disposed of accordingly. There will be no order as to costs. Consequently, WMP Nos.15584, 15586 and 15587 of 2020 are closed.

(T.R., ACJ.) (D.B.C., J.)
16.02.2023

Index : Yes/No
Neutral Citation : Yes/No

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