



W.P. No. 22585 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 22585 of 2023

and

W.M.P. No. 22016 and 22017 of 2023

Heritage House Owners Association Perungudi
Represented by its President
Mr. E.M.Balakrishnan, S/o.Emrose
Plot No. 43/2, Phase – 1 & 3
Heritage Vijayendra Nagar
Veerapandia Kattabomman Street
Perungudi, Chennai – 600 096.

... Petitioner

-VS-

1. Commissioner
Greater Chennai Corporation
Ribbon Building
Chennai – 600003.
2. Executive Engineer
Perungudi, Chennai – 600 096.
3. Assistant Executive Engineer
Greater Chennai Corporation
Chennai – 600 096.
4. Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan House
01, Gandhi Irwin Road
Ansari Estate
Egmore, Chennai – 600 008.
5. Inspector General of Registration
Mylapore, Chennai – 600 004.



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6. Sub Registrar
Neelankarai
Chennai.

7. Heritage Property Development Company Private Ltd.
Represented by Chairman and Managing Director
Mr. V.Krishnaprasadh
“MEHBUBANI TOWERS”
Flat No. B-1, Ground Floor
No.46, Dr. B.Narasimhan Road
(North Boag Road)
T.Nagar, Chennai – 600 017.

8. Felix Manoharan

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First to Fourth Respondents to take action against the Seventh Respondent from converting the area meant for public purpose into his own use and consequently direct the Seventh Respondent to convey the Plot No.43/2, earmarked area for public purpose in the approved plan 09.11.2009 to the Heritage House Owners Association Perungudi (Reg. Sl. No. 501/2008).

For Petitioner : Mr. R.Vijayaraghaven

For Respondents : Mrs. P.T.Ramadevi,
Standing Counsel (for R1 to 3)

Mr. Y.Bhuvanesh Kumar,
Standing Counsel (for R4)

Mr. S.Rajkumar,
Additional Public Prosecutor (for R5)

Mr. U.Baranidharan,
Additional Government Pleader (for R6)

Mr. C.P.Hemkumar
for M/s. Ganesh & Ganesh (for R7 & 8)



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ORDER

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Heard Mr. Mr. R.Vijayaraghaven, Learned Counsel for the Petitioner, Mrs. P.T.Ramadevi, Learned Counsel appearing for the First to Third Respondents, Mr. Y.Bhuvanesh Kumar, Learned Standing Counsel appearing for the Fourth Respondent, Mr. S.Rajkumar, Learned Additional Public Prosecutor appearing for the Fifth Respondent, Mr. U.Baranidharan, Learned Additional Government Pleader appearing for the Sixth Respondent and Mr. C.P.Hemkumar, Learned Counsel appearing for the Seventh and Eighth Respondents, and perused the materials placed on record, apart from the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner is an Association of Owners of the housing plots of the property developed as 'Heritage Houses' by the Seventh Respondent at Perungudi in Chennai. It is the case of the Petitioner that Plot No. 43/2, Phase 1 & 3, Heritage Vijayendra Nagar, Veerapandia Kattabomman Street, Perungudi, Chennai, in that property had been allocated as common area for maintenance of the entire property and that the Seventh Respondent had undertaken to transfer it in favour of the Petitioner by way of Gift Deed but had failed to do so. However, as the Petitioner has instead executed a Sale Deed of the said plot



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in favour of the Eighth Respondent, the Petitioner claims to have made a representation dated 08.07.2023 to the First to Third Respondents to take action against the Seventh Respondent, but as it did not evoke any response, it has necessitated the filing of this Writ Petition.

3. The said claim of the Petitioner is vehemently contested by the Seventh Respondent by asserting that the relevant plot is its absolute property and that the Petitioner cannot have any semblance of any right, title or interest over the same.

4. It is obvious that the controversy involved falls within the realm of disputed questions of fact relating to property rights which cannot be determined in proceedings following summary procedure under Article 226 of the Constitution and would have to be answered one way or other only in a properly framed suit impleading necessary parties before the civil court as cautioned by the Hon'ble Supreme Court of India in the decision in ***Roshina T. -vs- Abdul Azeez K.T.*** [(2019) 2 SCC 329]. In view of that legal position, Learned Counsel for the Petitioner seeks permission of the Court to withdraw the Writ Petition reserving the rights of the Petitioner to resort to the aforesaid procedure and he has made an endorsement to that effect in the court record.



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In the result, the Writ Petition is dismissed as withdrawn with the aforesaid clarifications. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 14.02.2024.

Maya

To

1. Commissioner
Greater Chennai Corporation
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Chennai – 600003.
2. Executive Engineer
Perungudi, Chennai – 600 096.
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P.D. AUDIKESAVALU, J.

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