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Writ Petition No.33302 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2023

Coram

**THE HONOURABLE MR. T.RAJA, ACTING CHIEF JUSTICE
and
THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY**

**Writ Petition No.33302 of 2022
and
W.M.P.No.32743 of 2022**

Metro Grand City Welfare Association
represented by its President
Mr.K.Neethirajan
Regn. No.SRG/Chennai South/68/2020,
Plot No.350, MG City Main Road,
Meth Nagar, Kundrathur,
Chennai - 600 069.

.. Petitioner

Vs.

1.The District Collector,
Kanchipuram District,
Kanchipuram.

2.The Tahsildar,
Kundrathur Taluk,
Kundrathur, Chennai.

3.The Commissioner,
Tambaram Corporation,
Chennai.

...Respondents



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Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to make necessary sub-division for facilitating a passage in Survey No.105, Kundrathur Village, Kanchipuram District, for the purpose of road thereby enabling the public to continue to use the said passage as road within a time line prescribed by this Court.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.P.Muthukumar
State Government Pleader

ORDER

[Made by the Hon'ble Acting Chief Justice]

The petitioner has filed this writ petition seeking issuance of a Writ of Mandamus directing the respondents to make necessary sub-division for facilitating a passage in Survey No.105, Kundrathur Village, Kanchipuram District, for the purpose of road thereby enabling the public to continue to use the said passage as road within the time limit prescribed by this Court.

2. Heard Mr.M.Muthappan, learned counsel for petitioner and



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Mr.P.Muthukumar, learned State Government Pleader, appearing for respondents.

3. Mr.M.Muthappan, learned counsel for petitioner, submitted that the petitioner's lay out was approved by CMDA in No.15/2017, which comprises of Survey Nos.114, 129, 132, 133, 134, 137, 138, 139, 140, 141, 142, 422, 441, 448, 449, 450, 451, 453, 454, 456, 457, 458, 459, 461, 452, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 483, 485, 486, 487, 488, 489, 490, 491 and 495. In and around the petitioner's lay out, there are various other layouts called Sambandam Nagar, Metha Nagar Extn., Boopathy Avenue, Jai Nagar, Jai Nagar Annexe, Kutti Vinayagar Nagar, Prithvi Nagar, Metro Grand City, Maha Nagar, Metro Grand City Extension, Iswarya Avenue, Raja Gopal Nagar, Hari avenue, Sai Pooja Avenue *etc.* and they have been using a passage, namely, Metha Nagar main road for several decades. The said Metha Nagar main road passes through Survey No.105, which is a Government land under the classification ""Kalam Medu". It is also maintained by the local body in which the basic amenities like street lights are provided.

4. Learned counsel further submitted that since the Government has



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proposed to construct a building for a new Taluk Office by dismantling the road, the petitioner association gave a representation on 28.06.2022 to allow them to use the passage that passes through Survey No.105 of Kundrathur Village. However, the respondents ignoring the said request, awarded a tender for constructing the Taluk Office. The petitioners are not against the construction of Taluk Office in Survey No.105 of Kundrathur Village and the residents of the petitioner association and the people living in and around the area would welcome the construction of new Taluk Office. Their only request is to leave a small passage for use of public, which would not affect the construction of the Taluk Office. Since the request of the petitioner was not acted upon, the present petition has been filed seeking the aforesaid relief.

5. Relying upon the detailed counter affidavit filed by the second respondent, learned State Government Pleader submitted that the petitioner's apartment is situated at S.Nos.422, 424, 423, 441, 444, 448, 449, 450, 451, 452, 453, 454, 457, 458, 474, 475, 134, 135, 133, 136, 138, 459, 460, 139, 140, 141, 142, 132, 461, 114, 129, 106, 468, 469, 470, 471, 477, 485, 493



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and 495 and they are having access road in Kundrathur to Thirumudivakkam Main Road. In support of his submissions, learned State Government Pleader has also produced a photograph.

6. A perusal of the photograph clearly shows that the petitioner's apartment gate is just facing the main road. When the petitioner's are having free access road to Kundrathur to Thirumudivakkam Main Road, they cannot seek for a passage in the road covered in Survey No.105 as the land covered in Survey No.105 is classified as "Kalam". When no other general public is using the said Government land in Survey No.105, it is not open to the petitioner to seek for the aforesaid relief. That apart, when the land in Survey No.105 is classified as "Kalam", it is exclusively meant for farmers and agriculturists to bring their agricultural produce and if this "Kalam" is permitted to be used for other purposes, it would cause great prejudice to the agriculturists/farmers.

Accordingly, this Writ Petition fails and the same is dismissed. No



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costs. Consequently, connected miscellaneous petition is closed.

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[T.R., A.C.J]

[D.B.C., J]

01.03.2023

Index: Yes/No

Speaking Order/Non-speaking order

Neutral citation : yes/no

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To

1.The District Collector,
Kanchipuram District,
Kanchipuram.

2.The Tahsildar,
Kundrathur Taluk,
Kundrathur, Chennai.

3.The Commissioner,
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THE HON'BLE ACTING CHIEF JUSTICE

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