



W.P(MD)No.17385 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.17385 of 2013

and

M.P(MD)No.1 of 2013

Sri Mariamman Nagar Kudiyirupoor
Nala Sangam,
Represented through its Secretary,
S.Dhanasekaran,
S/o.P.S.Sundareswaran,
Situated at Vilampatti Road,
Office at No.1/661-E1A,
Sri Mariamman Nagar,
Vilampatti Road,
Sivakasi West,
Virudhunagar District.

... Petitioner

Vs

1.The Tahsildar,
Sivakasi Taluk,
Sivakasi West,
Virudhunagar District.

2.The President,
Anaiyur Panchayat,
Satchiyapuram,
Sivakasi West,
Virudhunagar District.



W.P(MD)No.17385 of 2013

3.The Block Development Commissioner
- cum – Panchayat Union Commissioner,
Satchiyapuram,
Sivakasi West,
Virudhunagar District.

4.S.Bala Krishnan

5.E.Subbaian

6.K.Govindan (Died)

7.M.R.Srinivasan

8.S.Sulochana

9.P.Arun Prasanna

10.P.Saravanna Pasanna (Died)

11.G.Mariammal

12.Venkattammal

13.Santha

14.Krishnaveni

15.Dhanalakshmi

16.Kathigai Selvi

***(R.11 to R.16 are impleaded vide
order of this Court dated 30.08.2023
in M.P(MD)No.1 of 2015)***

17.S.Devi Bala

***(R.17 is impleaded vide order
of this Court dated 30.08.2023
in M.P(MD)No.2 of 2015)***

... Respondents



W.P(MD)No.17385 of 2013

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents 2 and 3 to allocate 1.48 Acres for public purpose within 14.86 Acres in Survey No. 1318/1, 1319/1, 1350/4, 1350/5, 1350/6, 1350/7, 1351/1 & 1352/3 of Anaiyur Panchayat, Sivakasi Panchayat Union as per the provisions contemplated in Tamilnadu Panchayats Buildings Rules, 1997 and consequently directing the first respondent to conduct a Survey in Survey No. 1352/3 of Anaiyur Village, Sivakasi Panchayat Union and cancel the unlawful patta issued in Patta No. 2560/07 and in such case direct the respondents 1 to 10 to compensate the members of the petitioner's association with market price of plot and building.

For Petitioner : Mr.J.Jeyakumaran

For Respondents : Mr.N.GA.Natraj
Government Advocate for R.1

Mr.J.Gunaseelan Muthiah for R.2 & R.3

Mr.D.Senthil for R.4 & R.5

Mr.R.R.Kannan for R.7 & R.8

Mr.G.Mohan Kumar
for R.9, R.10 & R.17

ORDER

Heard both sides.

2.The writ petitioner is an association of persons representing the residents of Sri Mariamman Nagar in Anaiyur Village, Sivakasi Panchayat



W.P(MD)No.17385 of 2013

Union. It is not in dispute that the extent of land measuring 14.86 acres in Survey Nos.1318/1, 1319/1, 1350/4, 1350/5, 1350/6, 1350/7 and 1351/1 in Anaiyur Village belonged to the respondents 4 to 6 herein. They had executed power of attorney in favour of the seventh respondent / M.R.Srinivasan. An unapproved layout was prepared. The lands were plotted out into 179 plots. The members of the petitioner association purchased as many as 79 plots. Subsequently, they have also raised constructions.

3.The grievance of the writ petitioner is that the promoters have not left 10% of the total layout area for public purposes. The learned counsel appearing for the petitioner pointed out that still a number of plots are lying vacant and that they have been shown as if they have been sold in favour of the eighth respondent who is none other than the wife of the power agent M.R.Srinivasan. Yet another grievance of the petitioner is that terminal points of the roads have been blocked and that they should be opened.

4.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.



W.P(MD)No.17385 of 2013

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5.The official respondents have not filed any counter affidavit. The learned counsel appearing for the respondents 4 & 5 submits that all the plots have been sold out and they have no further interest in the subject matter.

6.The learned counsel appearing for the respondents 7 and 8 submits that the seventh respondent cannot be considered as a promoter and even though he was acting as a power agent originally, he should be considered only as a purchaser of some of the plots in the said lay out of Sri Mariamman Nagar Nagar. He also would argue that the eighth respondent has purchased some plots in her individual and independent capacity.

7.The learned counsel appearing for the respondents 9 and 10 submits that they are bona fide purchasers and members of the petitioner association and it is unfair to target them. The learned counsel appearing for the private respondents submit that the writ petition deserves to be dismissed.

8.I carefully considered the rival contentions and went through the materials on record. I may clarify at the outset that no case has been made out for granting relief as against the respondents 9 and 10. The writ petition stands dismissed as far as they are concerned. Since the respondents 4 and 5 contend



W.P(MD)No.17385 of 2013

that all the plots have been sold out, it is not possible for this Court to issue any specific direction against them also.

9.I fail to understand as to how the local body has remained completely indifferent. When developmental activities for almost 15 acres of land were going on in their panchayat limits, the local body officials were duty bound to have stepped in. It is well settled that a layout of this extent could not have been formed without prior concurrence from the Town and Country Planning Department. The construction activities also could not have been taken place. When unauthorized development is taking place right under the nose of the local panchayat, they ought to have intervened. The failure on the part of the second respondent in not taking action in time had led to the present issue. The District Collector in his capacity as Inspector of Panchayats ought to take action if it comes to his or her knowledge that the panchayat officials have been remiss in discharge of their duties.

10.Be that as it may, it is the duty of any land promoters to leave out sufficient space for playground, park and roads. In this case, not even a single plot has been earmarked towards for park purposes. It is well settled that when the promoters have not formed a gated community, the terminal points of any public road could not have been blocked. The learned counsel appearing for



W.P(MD)No.17385 of 2013

the petitioner points out that when individual sale deeds were executed, layout plan was shown. What has been shown as road will have to remain as a road.

The terminal points cannot be blocked. It is the duty of the official respondents to involve the Town and Country Planning Department and ensure that the roads shown in the layout plan open out into the neighborhood. Such action shall be taken by the authorities concerned immediately and without any delay.

11.This writ petition is partly allowed to this extent. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

30.08.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

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Sivakasi Taluk,
Sivakasi West,
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W.P(MD)No.17385 of 2013

G.R.SWAMINATHAN, J.

MGA

3.The Block Development Commissioner
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