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W.P.No.1557 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.1557 of 2024 and
WMP.Nos.1572 & 1573 of 2024

P.Mala

... Petitioner

Vs.

- 1.The Director of Town and Country Planning,
Having Office at Chennai Metropolitan
Development Corporation Building,
E and C Market Road, Koyambedu,
Chennai 600 107
 - 2.The Tahsildar,
Kundrathur Taluk,
Kancheepuram District
 - 3.M/s.S & P Foundation Pvt.Ltd.,
Represented by S.V.Sriramalu,
No.6, Amarvilla, No.4/211, MGR Street,
Palavakkam,
Chennai 600 041
 - 4.The Sub Registrar,
Sriperumbudur,
Kancheepuram
- (1st respondent cause title amended as per order
dated 25.09.2024 in WMP.No.30906 of 2024
in WP.No.1557 of 2024)

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records of the first respondent herein culminating in Na.Ka.No.7060/2021/TCP 5 dated 19.08.2021 on the file of the first respondent herein and quash the same insofar as the same relates to survey no.42/1 of Karasangal Village of Kundrathur Taluk, Kancheepuram District is concerned and direct the first respondent herein to modify the impugned approval by taking note of the topography of survey no.42/2 and 42/1 based on the revenue records including patta and FMB.

For Petitioner : Mr.M.Santhanaraman

For Respondents

For R1,2&4 : Mr.V.Manoharan,
Additional Government Pleader

For R3 : Mr.K.K.Sivashanmugam

ORDER

This writ petition has been filed challenging the layout approval dated 19.08.2021 granted in Na.Ka.No.7060/2021/TCP 5 on the file of the first respondent insofar as the property comprised in survey



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no.42/1 of Karasangal Village, Kundrathur Taluk, Kancheepuram District.

2. According to the petitioner, the property comprised in survey no.42 admeasuring 2.36 acres situated at Karasangal Village is owned by the petitioner's family, in which her grandfather and his brother are entitled to equal share i.e. 1.36 acres. However, her grandfather's brother's family erroneously sold 1.36 acres of land in survey no.42 out of total extent of 2.36 acres in favour of the third respondent by the registered sale deed dated 31.05.2006 vide document No.8673 of 2006. Therefore, one branch of legal heirs i.e. the petitioner and her mother filed suit in OS.No.374 of 2008 on the file of the District Munsif Court, Sriperumbudur as against the vendor of the third respondent and the third respondent for declaration declaring the sale deed executed in favour of the third respondent as null and void. While pending the suit, there was compromise entered between the parties thereby the sale deed executed in favour of the third respondent was ratified by the petitioner and her family members. In respect of the remaining one acre, it was settled in favour of the petitioner herein by the



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compromise decree dated 06.12.2014. Thereafter, the petitioner was issued patta after sub division of survey No.42 as 42/1 and 42/2. Survey No.42/1 is situated on the northern side and survey No.42/2 is situated on the southern side. The extent of the property in survey no.42/1 is 1.36 acres and the extent of the property in survey No.42/2 is one acre.

2.1 According to the petitioner, the property comprised in survey No.42/1 is situated on the northern side. Accordingly, necessary changes were made and the same were entered in the revenue records including the FMB sketch of the subject property. While being so, the third respondent had shown the property comprised in survey no.42/1 as if located on the southern side and obtained layout approval along with the adjacent property. As per the lay out, the land comprised in survey No.42/1 has been shown as road and the same was gifted in favour of the President of Karasangal Panchayat, Kundrathur Taluk, Kancheepuram District by the gift deed dated 04.04.2022 registered vide document No.2854 of 2022. Therefore, the petitioner submitted representation stating that the property comprised in survey No.42/1 is located on the



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northern side and the property comprised in survey No.42/2 is located on the southern side by enclosing FMB sketch. However, the said representation was not considered and as such, the petitioner was constrained to file writ petition before this Court in WP.No.15029 of 2023 and this Court by an order dated 10.05.2023 directed the second respondent to consider the representation submitted by the petitioner and to dispose of the same within a period of eight weeks from the date of receipt of the order.

2.2 In the meanwhile, the petitioner also sent another representation dated 08.07.2022 to the second respondent to rectify the manipulations done by the third respondent. The second respondent by order dated 08.03.2023 ordered to the effect that survey No.42/2 of Karasangal Village has been wrongly shown as if situated in northern side, which is entered in Taluk account correctly as situated in southern side and the same was modified in village accounts as if the property comprised in survey No.42/1 is situated in the northern side and the revenue records and FMB should be corrected as in the Taluk accounts to



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the effect that the property admeasuring 0.55.0 ares comprised in survey No.42/1 is situated on the northern side and the property admeasuring 0.40.5 ares is situated on the southern side. Accordingly, changes were made. As directed by this Court, the second respondent had surveyed the subject property with police assistance and the third respondent had objected the same in respect of identifying the subject property. However, it was identified that the property comprised in survey No.42/2 is located on the southern side and issued order dated 17.10.2023 to that effect. Subsequently, the third respondent attempted to trespass the petitioner's land. Therefore the petitioner lodged complaint.

2.3 Thereafter on verification of gift deed executed by the third respondent and also the layout approval, the petitioner came to understand that the third respondent obtained planning approval by manipulating the FMB sketch as the land comprised in survey no.42/1 is located on the southern side and gifted the said land in favour of the local authority. Therefore, the petitioner objected the same. However, the said objection was not considered and as such, the petitioner challenged



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the very layout approval insofar as the land which was gifted in favour of the local body comprised in survey no.42/1 of Karasangal Village, Kundrathur Taluk, Kancheepuram District is concerned and sought for direction to rectify the approval by taking note of the topography of survey No.42/2 and 42/1 based on the revenue records and patta.

3. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.

4. Admittedly, there is no dispute in respect of the extent of the property comprised in survey No.42/1 as 0.55.0 ares and the property comprised in survey no.42/2 as 0.40.5 ares. Whether which property is located on which side is the only dispute. As per the revenue records, the land comprised in survey no.42/1 is situated on the northern side and the property comprised in survey no.42/2 is located on the southern side.

5. In view of the above, the second respondent is directed to



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survey the land comprised in survey no.42/1 situated at Karasangal Village, Kundrathur Taluk, Kancheepuram District as per the revenue records and submit a report before the first respondent within a period of two weeks from the date of receipt of copy of this order. On receipt of the said report, the first respondent is directed to accordingly modify the layout approval dated 19.08.2021 within a period of four weeks thereafter. Till then, the layout approval dated 19.08.2021 cannot be acted upon.

6. With the above directions, this writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

22.10.2024

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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To

- 1.The Director of Town and Country Planning,
Having Office at Chennai Metropolitan
Development Corporation Building,
E and C Market Road, Koyambedu,
Chennai 600 107
- 2.The Tahsildar,
Kundrathur Taluk,
Kancheepuram District
- 3.S.V.Sriramalu,
M/s.S & P Foundation Pvt.Ltd.,



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No.6, Amarvilla, No.4/211, MGR Street,
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4.The Sub Registrar,
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G.K.ILANTHIRAIYAN, J.

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