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W.P.No.20422 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2024

CORAM

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

W.P.No.20422 of 2015

M.Jayaraman

.... Petitioner

Vs

1.The Commissioner,
Corporation of Chennai,
Chennai – 600 003.

2.The Assistant Executive Engineer (T.P.)
Corporation of Chennai,
Chennai – 600 003.

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the respondents their officers, employees, subordinates, agents or any other person claiming or acting under them from in any manner seeking to interfere with the petitioner's possession of the property situated at R.S.No.440/1-A, 441/1C and 441/6 situated at No.17/8, Velachery Village, Saidapet Taluk, Chennai and refrain from seeking to take over land without following the due process of law.

For Petitioner : Mr.K.Harishankar

For Respondents : Mr.G.T.Subramanian
Standing Counsel

ORDER



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2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner purchased plot No.16C in Jaganathapuram Layout, situated at No.137, Velachery Village, Mambalam Guindy Taluk, Chennai, admeasuring 16 ½ cents comprised in R.S.Nos.440/1A, 441/1C and 441/6 from P.T.Ramakrishnan, P.T.Vasanth, P.T.Srinivasan, Hemalatha, P.T.Radha, P.T.Rajalakshmi and P.T.Mythili, by a registered sale deed dated 13.07.2007. The petitioner was also issued patta in Patta No.1248/09-00. While being so, the respondents attempted to demolish the petitioner's property by trespassing. Therefore, the petitioner verified the records with his vendors, who produced the Judgment and decree dated 09.01.1995 passed in O.S.No.5820 of 1994 on the file of the City Civil Court, Chennai, which declared the petitioner's vendors as the



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rightly owners of the subject property. That apart, the Judgment became final and no appeal was filed by the respondents. The Power of Attorney holder of the petitioner's vendors had also filed writ petition before this Court seeking building planning permission for the subject land in W.P.No.4505 of 2005. This Court, by an order dated 16.02.2005, directed the respondents to consider the representation submitted by the vendors. Thereafter, the petitioner's vendor's power agent one P.T.Ramakrishnan also filed a writ petition before this Court in W.P.No.455 of 2007, seeking a direction to the respondents for granting building planning permission. This Court, by an order dated 04.01.2007, directed the respondents to process the application and decide it on merits and in accordance with law. However, the neither the petitioner's vendors nor the petitioner's vendors power agent have been granted building planning permission.

4. A perusal of the counter filed by the respondents reveals that originally, the land comprised in survey Nos.440 to 444 and 123/2 at Velachery Village, was laid out as Jaganathapuram Layout by approval dated 12.12.1964 vide DTP No.110/1964. As per the approved layout, some of the area was earmarked as Open Space Reservation for public



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purposes. Subsequently, the original developer viz., the petitioner's vendors, submitted a revised layout plan and the same was considered and granted plan approval vide LPDM/DTP No.5/71 and accordingly reduced the reserved site to the extent of providing for two additional house sites and retaining the balance of the reservation R1 for community use such as reading room, library, children's play park, well and garden, as such a reservation is highly essential for the residents of the area.

5. As per the said revised layout plan, Plot Nos.16A and 16B were approved. After laying out these two additional house sites viz., Plot Nos.16A and 16B, the remaining land, admeasuring 16 ½ cents, was earmarked for public purposes. However, there is no record to show that the petitioner's vendors executed any gift deed in favour of the Velachery Panchayat. Subsequently, the said Panchayat merged with the Corporation of Chennai in the year 1978 and thereafter, the respondents have been in possession and enjoyment of the said property. Utilizing the said circumstances, the petitioner's vendors filed a suit for declaration, mentioning only the survey numbers and without mentioning the plot number as 16C, and obtained ex-parte decree. Subsequently, they also applied for building planning permission for the very same land.



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However, no building planning permission was granted for the subject land. In fact, the vendors appointed their power agent and once again approached this Court. Even then, no building planning permission was granted for the subject land. Subsequently, the petitioner's vendors sold the land to the petitioner by a registered sale deed dated 13.07.2007 vide document No.3159 of 2007. On the strength of the sale deed, the petitioner was granted patta.

6. However, on perusal of the revised layout approval, it is evident that there was no plot No.16C. The vendors of the petitioner cleverly executed a sale deed in favour of the petitioner, mentioning the subject property as plot No.16C and sold out. The petitioner, being the purchaser, should have been vigilant. However, without even verifying the layout, the petitioner purchased the plot. Though the petitioner is a bonafide purchaser, the subject property was originally earmarked for public purposes and therefore, it cannot be used for any other purposes. The vendors of the petitioner did not execute any gift deed, and taking advantage of the same, they sold out the subject property in favour of the petitioner. As per the revised layout, the said property was earmarked for community purposes, such as reading room, library, children's play park,



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well and garden for the purpose of residents of the area.

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7. The learned counsel appearing for the petitioner relied upon the Judgment of the Hon'ble Supreme Court of India reported in **2015(6) Scale** in the case of **Pradyumna Mukund Kokil Vs. State of Maharashtra & Ors**, in which, the Hon'ble Supreme Court of India has held that it would not be proper on the part of the Government body or any State authority to take possession of somebody's land without following due process of law and even if a citizen has permitted his land being used by a Government authority, the authority should not take undue advantage thereof at the time of giving compensation when the said land is acquired.

8. The above Judgment is distingly different and not applicable to the case on hand. The subject land is earmarked for public purposes, as stated supra, as per the revised layout approval. Therefore, the petitioner's vendors had no ownership rights over the property. The petitioner's vendors conveniently obtained a decree for entire property comprised in survey Nos. 440/1A, 441/1C and 441/6 admeasuring 16 ½ cents situated at Velachery Village, Chennai and executed the sale deed



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in favour of the petitioner. They cleverly mentioned a plot number, which is not available as per the revised layout approval. Therefore, the Judgment and Decree passed in O.S.No.5820 of 1994 are not binding.

9. In view of the above, the writ petition lacks merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. However, the respondents can very well to deal with the subject land, as per the revised layout approval, for the purpose for which the subject land has been earmarked. Consequently, connected miscellaneous petition is closed. No costs.

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Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
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To

1.The Commissioner,
Corporation of Chennai,
Chennai – 600 003.

G.K.ILANTHIRAIYAN, J.

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2.The Assistant Executive Engineer (T.P.)
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