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W.P.No.9065 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**Writ Petition No.9065 of 2021
and WMP Nos.9611 & 9615 of 2021**

VGP Housing Pvt Ltd.
Rep. by its Director Mr.VGP. Rajadas
VGP Square
No.6, Dharmarajan Koil Street
Saidapet Chennai 600 015.

.... Petitioner

.Vs.

1. The Commissioner
Corporation of Chennai
Rippon Building
Chennai 600 002.
2. The Zonal Officer
Zone -15
Corporation of Chennai
Sholinganallur
Chennai 600 119.
3. The District Collector
Chennai District
62, Rajaji Salai Chennai
Chennai 600 001.

..Respondents



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4. Kudieruppor Samooga Nala Sangam-Uthangi
Regn.No.105 of 2020
Rep.b its President
Mr.M.Kuppusamy
No.1/193-Bajanaikoil Street
Uthandi Village, Sholinganallur Taluk
Kanchipuram District, Chennai 600 119.

**(R4 impleaded as 4th respondent as per order dt.15.11.2024
in WMP No.11070 of 2021 in WP.No.9065 of 2021 by CVKJ)**

5. Society of Liberals Valuing Environment (“SOLVE”)
(Society Registration Number SI.No.SRG/Chennai South/209/2021)
Represented by its Secretary
No.724/725, VGP Housing Layout
Mazhavarayar Avenue, Uttandi, Chennai 600119.

**(R5 impleaded as 5th respondent as per order dt.15.11.2024
in WMP No.21053 of 2022 in WP.No.9065 of 2021
by CVKJ)**

6.Arulmighu Kannan Radha Rukmani
Thirukoil Samaya Arakkattalai-Uthandi
Reg.No.2381/2006
No.2/55, Kannbiran Koil Street
Uttandi, Chennai 600119.
Rep.by its Treasurer
R.Dhananjeyan, Aged 66 years
Son of T.Ramakrishnan
2/52A Raghunathan Nagar
Uttandi, Chennai 600119.

. . Respondents

**(R6 impleaded as 6th respondent as per order dt.15.11.2024
in WMP No.25308 of 2023 in WP.No.9065 of 2021
by CVKJ)**



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Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records in relation to the order dated 04/03/2021 bearing No.Ma.A.15 Na.Ka.No.01106 /2021 issued by the 2nd respondent to the petitioner and quash the same and consequently direct the respondents not to interfere with the petitioner's peaceful possession and occupation of land measuring 02 acres in S.No.2/2B1 situated in Uthandi Village now Sholinganallur Taluk, Chennai District.

For Petitioner : Mr.Shivakumar & Suresh

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

Mr.V.Nanmaran
Additional Government Pleader
for R3

Mr.M.R.Jothimanian
for R4

ORDER

WMP.Nos.11070 of 2021, 21053 of 2022 and 25308 of 2023 have been filed by three/petitioners seeking to implead themselves as further respondents in the writ petition.



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2.The writ petition has been filed in the nature of a Certiorarified Mandamus calling records relating to the order dated 04.03.2021 issued by the 2nd respondent – The Zonal Officer, Corporation of Chennai at Sholinganallur and to quash the same and consequently, not to interfere with the peaceful possession of the petitioner with respect to land measuring 2 acres in Survey No.2/2B1 at Uthandi Village in Sholinganallur Taluk.

3.In the affidavit filed in support of the writ petition, it had been stated that total land measuring 87.48 acres, had been obtained by the petitioner for layout approval. It is contended that there were issues relating to portions of land. Objection were raised that they were being used for burial/cremation purposes. However, the petitioner had successfully taken control of such land. By the impugned notice, the 2nd respondent had directed, that the said land which had been used for burial/cremation purposes should be handed back. The land i which was so demanded to be handed back measured about 2 acres and it was situated at Survey No.2/2B1 at Uthandi Village in Sholinganallur Taluk. Questioning that particular demand by the 2nd respondent to hand over the land, the present writ petition has been filed.



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4.Three impleading applications have been filed: 1) WMP No.11070 of 2021 by Kudieruppor Samooga Nala Sangam at Uthandi, 2) WMP No.21053 of 2022 by Society of Liberals Valuing Environment and 3) WMP.No.25308 of 2023 by Arulmigu Kannan Radha Rukmani Thirukoil Samaya Arakkattalai at Uthandi.

5.In the affidavit filed in support of WMP No.11070 of 2021, it had been contended that the members of the Kudieruppor Samooga Nala Sangam, had been using the burial ground at S.No.2/2B1 and also at 3/2B1 for more than 150 years. It had been stated that attempts were made to shift the burial ground. It had been contended that the writ petitioner had unlawfully taken possession of the said burial ground. It is therefore contended that they are necessary parties to be heard before the orders are passed in the writ petition.

6.In the affidavit filed in support of WMP No.21053 of 2022, it had been stated that the petitioner Society, Society of Liberals Valuing Environment (Solve) currently owned property and have rights to enjoy the common Government property at VGP Housing Layout Phase-1. It had been stated that the writ petitioner had misrepresented that they are the owners of the disputed lands and that they had entered into a valid arrangement with legal heirs of the



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original owner V.R.Subramaniam Pillai. In effect, the petitioner, Society of Liberals Valuing Environment, questioned the right and title of the writ petitioner and the right to even challenge the impugned notice. The petitioner Society claims right and title as owners of the said land. It is therefore contended that they must also be heard before the orders are passed in the writ petition.

7.In the affidavit in support of WMP No.25308 of 2023, it had been stated that the petitioner, Arulmigu Kannan Radha Rukmani Thirukoil Religious Trust, is a registered Trust at Uthandi of the Eastern side of the ECR Road. It had been stated that the writ petitioner had identified only Government land available in the Village for use as recreation use. It had been stated that the writ petitioner had taken over the land without identifying any of the land which formed part of the layout or otherwise. It had been contended that the petitioner had sent several representations giving the details of the usage of the lands and existence of public burial cum cremation ground for a number of years. It is therefore contended that the said petitioner should also be heard before passing final orders in the writ petition.



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8.The writ petitioner claims that 2 acres of land which forms part of a larger layout which the writ petitioner had formed, should not be handed over as demanded by the 2nd respondent. But however, it is seen that a plea has been raised that the said 2 acres of land had been used as burial/cremation ground for atleast 100 to 150 years. The nature of a land cannot be changed on the whims and fancies of the writ petitioner. If a portion of the land is being used as burial/cremation ground, then it had to be continued to be used for such purpose. There cannot be a layout formed over such land. The petitioner cannot put to risk rights of those who have been using the tender mentioned property as burial/cremation ground.

9.The petitioner claims that he had formed a layout. That very aspect is questioned by the petitioner in WMP No.21053 of 2022 who claimed that the members of the petitioner therein are the owners of the said land. It is evident that the 2 acres of land by the writ petitioner is used as burial/cremation ground. The 2nd respondent has every right to direct the petitioner to hand over the said land back to the 2nd respondent.

10.As there is no merit in the writ petition, writ petition stands dismissed.



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11. There has been compliance of the directions of the impugned notice. The 2nd respondent is directed to take steps in the manner known to law to reclaim the said land viz., 2 acres of land in Survey No.2/2B1 at Uthandi Village, Sholinganallu Taluk, Chennai District.

12. The Writ Petition stands dismissed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
NCS : Yes/No
KP



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