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W.P.No.19372 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.19372 of 2020
and
W.M.P.No. 23961 of 2020

1. Srinivasa Rao
2. M.Aasha
3. V.Leela

... Petitioners

-Vs-

1.The Commissioner,
Greater Chennai Corporation,
Rippon building,
Chennai-600 003.

2. The Member Secretary,
C.M.D.A.,
No.1, Irwin Gandhi Salai,
Egmore, Chennai-8.

3. The Zonal Officer/ Assistant Commissioner,
Zone-3, Division-8, Ward-30,
No. 1, Thattankulam Street,
Bazaar Road, Madhavaram,
Chennai-60.

4. The Executive Engineer,
Zone-3, Division-8, Ward-30,
No. 1, Thattankulam Street,
Bazaar Road, Madhavaram,
Chennai-60.



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5. The Assistant Engineer
Zone-3, Division-8, Ward-30,
No.1, M.R.H. Road, Near Madhavaram Bus Terminus,
Madhavaram,
Chennai-60.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, forbearing the respondents from putting up construction of garbage waste shed/ unit and also connecting 24 feet road in approved layout Nos: PPD /46/98 & PPD/246/99 at Madhavaram village and Puzhal village at Survey No.1/IB, 1C1, 149/2B1, and further direct the respondents to form a 24 feet road and park in the above said place.

For Petitioner : Mr.S.Parthasarathy

For R1, R3 to R5 : Mrs.P.T.Ramadevi,
Standing Counsel

For R2 : Mrs.P.Veena Suresh,
Standing Counsel

ORDER

This Writ Petition has been filed forbearing the respondents from putting up construction of garbage waste shed/unit and from connecting 24 feet road in the approved layout Nos: PPD /46/98 & PPD/246/99 at Madhavaram Village and Puzhal Village situated in Survey No.1/IB, 1C1, 149/2B1.



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2. Heard the learned counsel appearing on either side and

perused the materials available on record.

3. The petitioners owned a property located at Plot No.1 & 2 comprised in T.S.No.19 & 18 of New Secretariat Officers Colony, Madhavaram, Chennai, under the jurisdiction of the third respondent. There is 24 feet road connecting the main road on the western side as per the Puzhal layout No.P.P.D.246/89. As per the said layout, the Open Space Reservation (hereinafter referred to as “OSR”) land comprised in Survey No.1/B, 1C1, 149/2B1 situated at Puzhal Village, was gifted by the promoters for park. It is provided for fresh air and other recreational purposes. While being so, in the existing road the third respondent is now proposed to construct a garbage waste segregation shed. Therefore the petitioner submitted a representation and the same was not considered. Hence, this present writ petition.

4. A perusal of the counter filed by the third respondent and the submissions made by the learned Standing Counsel reveals that as per the Puzhal layout, in the OSR land there is no 24 feet road connecting the road in existence. The OSR land admeasuring 11472 sq.ft was gifted



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by the original owner on 14.09.1989 registered vide document No.7575

of 1989. Accordingly, the construction has been put up for boundaries in

and around the OSR land and it belongs to the Corporation of Chennai.

In the said land, now a garbage waste segregation shed has been

constructed and it is in operation. The Government of India had

formulated a scheme, i.e, Swachh Bharat Mission, with an aim to clean

up the streets, roads and infrastructure and provided funds for

construction of compost yards for preparing manure from the

biodegradable waste in the Chennai City. The compost yard is working

as per the following procedure :

“..... Yard waste compost converts a significant portion of your household waste into healthy soil. The soil produced from yard waste compost is nothing short of a bundle of joy to the earth.

Decreased soil erosion by enhancing soil structure.

Return a diverse number of nutrients to soil.

Reduce watering needs by improving water retention in the soil.

Suppress plant diseases.

This is a beneficial process that requires oxygen and water and that emits carbon dioxide as a



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result. By diverting yard waste in landfill, you can help reduce the production of methane which is a powerful greenhouse gas that can trap 25 times more heat than carbon dioxide.

Organic waste such as yard waste compost can be turned into a valuable resource to replenish the soil. Depending on the method used to manage this green waste, gases emitted during the process can be captured to produce renewable energy.....”

5. Accordingly, a garbage waste segregation shed has been constructed and it is in operation. The First Bench of this Court, by an order dated 06.07.2023 in W.P.No.19825 of 2023, issued directions based on the Full Bench decision of this Court in the case of ***P.Karthikeyan and Ors Vs. Commissioner, Coimbatore Corporation*** in ***W.A.No.4078 of 2019*** vide order dated ***26.04.2021***. The extracted directions are as follows :

“250. Accordingly, the following directions are given to the State Government :

(1) The Government is directed to form a Committee at the State, District, Municipal and Panchayat level with the officials concerned at each level, monitoring the implementation of the SWM Rules,



2016.

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(2) The Committees, apart from chosen officials, may also include a concerned member, from the neighbourhood wherever such MCCs or the Compost Yard is to be located.

(3) The Committees are responsible for monitoring the upkeep and maintenance of MCCs and the Compost Yards and any issues relating to improper upkeep and poor maintenance of MCCs, or Compost Yards, the Committees should be empowered to intervene and take immediate remedial action.

(4) Once the site for location of a MCC or other Compost Yard is identified and set up, thereafter, the objections regarding the proper maintenance of the park / recreational area from being spoiled by the operation of MCC, if raised, shall be addressed, with all earnestness.

(5) The officials who are incharge of MCCs and Compost Yards shall ensure tat the disposal facility does not fall into disuse, resulting in the place becoming a dumping yard of garbage, leading to the degradation



of the entire open space toxically detrimental to the citizens enjoyment of clean environment.

(6) Any negligence of officials towards proper upkeep and maintenance of MCC or Compost Yards, stern disciplinary action to be initiated promptly against the officials concerned and if negligence is proved, appropriate punishment to be imposed on them.

(7) The Government is directed to issued a comprehensive Circular incorporating all necessary guidelines for the State/District/Panchayat Committees in implementation of the various facets of the SWM Rules, 2016, ensuring that the guidelines are strictly followed and implemented on the ground.

251. This Bench, in the conspectus of the above judicial discourse, answers the reference as follows.

252. Location of MCCs or the Compost Yard in the park/play field cannot be construed as Development in terms of the scheme of the Act, 1971 or the Combined Development Rules, 2019, and therefore, any prohibition contemplated in the statutory rules and



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regulations does not apply to the implementation of the concept of solid waste management as envisaged in the SWM Rules, 2016.

253. *The SWM Rules, 2016, are formed under the Central enactment, viz., the Environment (Protection) Act, 1986. The Rules thus prevail over the State laws to the extent of the implementation of the policies outlined towards solid waste management. Even otherwise, this Court does not see any palpable repugnancy between the SWM Rules, 2016 and the State laws.”*

6. In view of the above, the respondents are directed to follow the directions issued by the Full Bench of this Court in W.A.No.4078 of 2019 vide order dated 26.04.2021.

7. With the above direction, this writ petition stands disposed of. Consequently, connected miscellaneous petition is closed.

No costs.

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Internet : Yes

Index : Yes/No



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Speaking order/Non-speaking order
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To

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