



W.P(MD)No.22081 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.22081 of 2017
and
W.M.P(MD)No.18399 of 2017**

N.Kamaraj

... Petitioner

VS.

- 1.The Director of Survey and Settlement,
IIIrd Floor, Chepauk,
Chennai – 600 005.
- 2.The District Collector,
Virudhunagar District.
- 3.The Block Development Officer,
Vembakottai,
Virudhunagar District.
- 4.The Tahsildar,
Sivakasi,
Virudhunagar District.
- 5.The Tahsildar,
Vembakottai,
Virudhunagar District.



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6.The District Officer,
Fire – Rescue Service Department,
Virudhunagar District.

7.The Taluk Medical Officer,
Primary Health Centre,
Thayilpatti,
Vembakottai Taluk,
Virudhunagar District.

8.The Special Officer cum Block Development Officer,
Village Panchayat,
Vembakottai,
Virudhunagar District.

9.Karuppasamy

10.Palaniammal,
W/o.Alagumuthu,
4/154, Kamaraj Nagar,
Vembakottai.

11.Palaniammal,
W/o.Alagumuthu,
The Proprietor,
M/s.Sri Anbu HP Gas Gramin Vitrak (15174710),
Vembakottai.

... Respondents

(R – 11 impleaded vide order dated 14.12.2017
in W.M.P(MD)No.18757 of 2017)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the proceedings of the eighth respondent dated 28.10.2017 and quash the same and consequently direct the said respondent not to grant building plan permission/license for the land in Survey No.1132/3, Old No.847/7A

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WEB CAM situated at Vembakottai Village, Virudhunagar District.

For Petitioner	: Mr.A.Sivaji
For Respondent Nos.1 to 5, 6 & 7	: Mr.T.Amjadkhan Government Advocate
For Respondent No.5	: Mr.A.K.Baskara Pandian
For Respondent No.8	: Mr.S.Sadees Kumar
For Respondent Nos.9 to 11	: No appearance

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

Prayer in this Writ Petition is to quash the proceedings of the eighth respondent, dated 28.10.2017 and consequently to direct the eighth respondent not to grant building plan permission/license for the land in Survey No.1132/3, Old No.847/7A situated at Vembakottai Village, Virudhunagar District.

2.2.According to the petitioner, the land comprised in Survey No.1132/3, Old No.847/7 situated at Vembakottai Village, Virudhunagar District is a Village site and the same has been used by the residents of the said Village for common purpose. One Chinna Muthammal was residing in

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the said survey number to an extent of 36 sq.mts by putting up a small hut.

In the year 2008, the said Chinna Muthammal died and the said land in entirety was used by the Villagers for common purpose. While so, during the year 2017, the respondents 9 and 10, who have purchased the said land subsequently, tried to put up a construction in the said property. On further enquiry, it was revealed that an extent of 36 sq.mts used by the said Chinna Muthammal has been altered as 344 sq.mts and subsequently, altered as 444 sq.mts in the revenue records by the concerned officials. On 28.03.2017, an objection was made by the Village people not to grant permission for construction of building in the disputed land, as the said land is meant for common purpose and usage of the Villagers and for some development facilities to the Village. The sixth respondent after receipt of the objection inspected the property in question and found that the the construction made by the private respondents was without obtaining necessary planning permission and hence, he passed an order dated 05.04.2017 directing the private respondents to stop the construction. Subsequently, on 06.04.2017, the Villagers sent a representation to the fifth respondent not to grant approval for construction of building in the land in question. While so, on 20.04.2017, the sixth respondent issued a communication stating that patta has been issued to an extent of 0.0444.0



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sq.mts based on the sale deeds, dated 24.08.2012, 28.08.2012 and 03.01.2017.

3.The learned counsel appearing for the petitioner would submit that the original extent of 36 sq.mts in the occupation and enjoyment of late.Chinna Muthammal was enhanced to 344 sq.mts and further increased to 444 sq.mts arbitrarily. The issuance of patta in favour of the vendors of the private respondents had been challenged by the petitioner. The fourth respondent conducted an enquiry and sent a report dated 20.04.2017 to the second respondent. The second respondent by order dated 02.05.2017 rejecting the claim made by the petitioner on the ground of non-production of sufficient materials to substantiate the claim. In the meantime, on 03.06.2017, the Taluk Health Supervisor, Primary Health Centre, Thayilpatti issued a communication stating that approval cannot be granted for construction of gas agency in the subject land, as there is imminent danger to the neighbours. Despite the petitioner approached the authority concerned for cancellation of patta, the respondents 9 and 10 are taking steps for constructing the building.



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4.The learned counsel appearing for the petitioner further submitted that the respondents 9 and 10 got No Objection Certificate from Fire Service Department on 16.06.2017 and from Primary Health Centre, Thayilpatti on 20.10.2017 and building license was granted by the eighth respondent on 28.10.2017. The tenth respondent made an application dated 22.04.2017 to the Panchayat Union Commissioner seeking building plan approval for the office and store room of the gas business. Knowing fully about the prohibition of using the Grama Natham land for commercial purpose, the respondents 6 to 8 issued the proceedings. The request made by the tenth respondent was for commercial purpose, namely for Gas godown. Based on the proceedings of the eighth respondent, dated 28.10.2017, the tenth respondent is putting up an office for commercial purpose. Challenging the same, the Writ Petition has been filed.

5.According to the petitioner, permission has been granted only for the office purpose in the said property. On the contrary, it has been used for Godown in the said property in question by the tenth respondent and therefore, they have violated the conditions of the official respondents. Hence, necessary action is to be taken.



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6.The contention of the petitioner is that he had made several objections to the authority concerned for granting No objection for establishment of a Gas agency in the aforesaid property in question. Now, permission has been granted by the authority concerned, wherein among other conditions, the subject property is to be used only for office purpose and not for any other purpose such as Godown. But the tenth respondent has been running a Godown in the aforesaid property in question contrary to the conditions imposed by the authority concerned.

7.The learned Government Advocate would submit that on the basis of the 'No Objection Certificate' issued by the competent authority, the authority concerned granted building permission vide proceedings in Pa.Mu.B4/504/2017, dated 28.10.2018 with certain conditions. The tenth respondent has also given an undertaking that the proposed building in Survey No.1132/3 will be used only as booking office for delivering Gas cylinders and she will not store Gas cylinders or any other related materials in that building. On the basis of the undertaking given by the tenth respondent, building permission has been granted to the tenth respondent.



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

9. Considering the facts and circumstances of the case, we make it clear that if the tenth respondent has violated any of the conditions imposed by the authority concerned, the petitioner can make a representation to the authority concerned for taking necessary action within a period of two weeks from the date of receipt of a copy of this order. On submitting such representation, if the authority concerned finds that the tenth respondent has violated the conditions imposed, appropriate action shall be taken as against the tenth respondent in accordance with law as expeditiously as possible.

10. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [R.V.,J.]
29.01.2024
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NCC : Yes / No
Index : Yes / No
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and
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ORDER MADE IN
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