



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.3195 of 2021
and
W.M.P.Nos.3624 & 3630 of 2021

M.K.Balu

.. Petitioner

Vs.

- 1.State of Tamil Nadu
Rep. By its Secretary,
Department of Housing and Urban Development,
Fort St. George, Chennai 600 009.
- 2.Tamil Nadu Small Industries Development Corporation Ltd.,
Rep. By its Managing Director,
SIDCO Corporate Office Building,
Thiru.Vi.Ka. Industrial Estate, Guindy,
Chennai 600 032.
- 3.The Branch Manager Cum Estate Manager,
Tamil Nadu Small Industries Development Corporation Ltd.,
SIDCO Administrative Office Block,

Industrial Estate, Ambattur,
Chennai 600 058.
4. The Managing Director,
Chennai Auto Ancillary Industrial
Infrastructure Upgradation Company,
2nd Main Road, Nolambur Phase - 1,
Nolambur, Ambattur Industrial Estate,
Chennai 600 058.
- 5.Tamil Nadu Transmission Corporation Ltd (TANSTRANSCO)
Rep. By its Managing Director,
10th Floor, NPKRR Maligai,
144, Anna Salai, Chennai 600 002.



6.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation
Chennai North Electricity Distribution Circle
Z-A, 182, 5th Avenue, Anna Nagar West,
Z-Block, S-Block, Anna Nagar,
Chennai 600 040.

7.M/s.GRR Pipes,
Rep. By its Managing Director,
4, Somasundaram Nagar,
Krishnadoss Road, Chennai 600 012.

8.M/s.Adlar Pneumatic Private Limited
OP 7, South Phase, 5th Lane,
First Main Road, Ambattur Industrial Estate,
Chennai 600 058.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to consider the representation of the petitioner dated 25.12.2020 and to ensure the Public Pathway which is 35 feet road connecting the First Main Road of Ambattur Industrial Estate with Mogappair Road of Satya Nagar, Padi called 5th Lane is not obstructed by the respondents 4 and 8, their men or anyone claiming under them.

For Petitioner : Mr.K.Sathiyamurthi
for M/s.M.Ramamoorthi

For R1 : Mr.S.Arumugam
(Government Advocate)

For RR2 & 3 : Mr.S.P.Prabhakaran

For RR5 & 6 : Mr.S.Madhusudanan

For R8 : Mr.D.Muthukumar
for M/s.Paul and Paul

O R D E R

This Writ Petition is filed for a direction to the respondents 1 to 3 to consider the representation of the petitioner dated 25.12.2020 and to ensure the Public Pathway which is 35 feet road connecting the First Main Road of Ambattur Industrial Estate with Mogappair Road of Satya Nagar, Padi called 5th Lane, is not obstructed by the respondents 4 and 8, their men or anyone claiming under them.



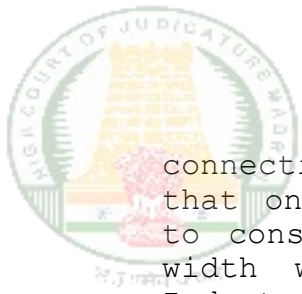
2(a).The case of the petitioner is that the Government of Tamil Nadu with the aid of the Central Government, constructed 201 Labor Tenements in 32 Blocks for the benefit of the workers employed at Ambattur Industrial Estate in various companies located therein. The tenements allotted were maintained from 1966-1980 by the Managing Committee for the Industrial Housing Department of the Industries and Commerce. Under a tripartite agreement, the employer agreed to deduct the rent and other charges from the wages of the allottees. By G.O.(Ms).No.128, Housing and Urban Development Department dated 24.03.1997, the Government of Tamil Nadu decided to sell the tenement to the allottees and by the G.O.(Ms).No.58 Housing and Urban Development Department dated 01.02.2000, the Government decided to sell the tenements to the original allottees and legal heirs of the original allottees.

2(b).The respondents 2 and 3 allotted Plot in OP.No.7 to the 7th respondent and kept the same in abeyance as the same originally fell under the common purpose area. In the W.P.No.27090 of 2003, filed by the 7th respondent, this Court, by the order dated 19.11.2004, directed the respondents 2 and 3 to hand over the vacant possession to the 7th respondent. The respondents 2 and 3 filed W.A.No.1933 of 2005 and this Court, by the order dated 07.11.2005, dismissed the said Writ Appeal.

2(c).For all the tenements, the pathway to reach adjacent area was across High Tension Power Corridor, which runs through 35 feet road connecting First main road of Ambattur Industrial Estate to the Mogappair Road of Satya Nagar, Padi. In the year 2006, the petitioner and the others were informed that the said pathway is going to be closed. After giving a representation dated 29.03.2006, the residents, through their Thozhilalar Kudiyruppor Nala Sangam, filed W.P.No.13940 of 2006, praying that Plot in OP No.7 should not be allotted to the 7th respondent. This Court dismissed the said Writ Petition by the order dated 04.08.2006. The 7th respondent admitted in the legal notice dated 01.04.2006 that there is a lamp post and there is a High Tension wire passing through the Plot OP.No.7 and there is a 20 feet Thar Road.

2(d).The 8th respondent purchased the Plot OP.No.7 from the 7th respondent in the year 2020. The 8th respondent has made construction. There cannot be any construction under the High Tension lines. The land occupied by the 8th respondent was originally allotted for common purpose. The 8th respondent purchased the Plot OP No.7 with pathway and allowed High Tension line to continue.

2(e).35 feet of the road is being continuously used by all the residents in the surrounding areas, which is also the road



connecting the 8th respondent Plot in OP No.7. It is submitted that on 24.12.2000, suddenly the respondents 4 and 8 attempted to construct a wall obstructing the pathway measuring 35 feet width which is connecting the first main road of Ambattur Industrial Estate with Mogappair Road of Satya Nagar, Padi. When members of the Association objected, the respondents 4 and 8 gave a false complaint to the Police. Due to the influence of the respondents 4 and 8, the residents were threatened and informed that the respondents 4 and 8 can construct a wall across the pathway which is in existence for more than 40 years. The respondents 4 and 8 are trying to alter the road by constructing wall, obstructing 35 feet road connecting first main road of Ambattur Industrial Estate with Mogappair Road of Satya Nagar, Padi. The respondents 4 and 8 are bound by principles of estoppel as the existence of road cited as a reason for execution of the sale deed in favour of the 7th respondent.

2(f).The petitioner made a representation dated 25.12.2020 to the respondents 1 to 5, requesting to take steps to remove the illegal construction under the High Tension Corridor (HT) which runs above the developed Plot in OP No.7, South Phase, 5th Lane, First Main Road of Ambattur Industrial Estate, Chennai and respondents 1 to 3 to ensure that the said pathway is not obstructed by the respondents 4 and 8. The respondents received the same, but have not taken any action. Hence, the petitioner has come out with the present Writ Petition.

3.The 1st respondent filed counter affidavit and denied all the averments made by the petitioner. Mr.S.Arumugam, learned Government Advocate appearing for the 1st respondent submitted that as far as removal of unauthorized constructions and encroachments are concerned, as per the provisions of the Tamil Nadu Town and Country Planning Act, 1971, the 1st respondent is an appellate authority. The petitioner, in paragraph no.14 of the affidavit has stated that he has submitted representation to the 1st respondent. The said representation is not as per Section 80 A of the Tamil Nadu Town and Country Planning Act, 1971 namely the appeal powers conferred on 6th respondent. Whenever a representation is received for removal of illegal construction, the same will be forwarded to the competent authority to take appropriate action in accordance with law.

4(a).The 3rd respondent filed counter affidavit on behalf of the respondents 2 and 3 and denied all the averments made by the petitioner. Mr.S.P.Prabhakaran, learned counsel appearing for the respondents 2 and 3 submitted that the Writ Petition is not maintainable. The labor tenements were constructed by the Tamil Nadu Government with the aid of the Central Government for the benefit of economically weaker sections of the community in the



public and private sectors. Originally, the tenements were allotted on rental basis. Subsequently, the State Government, by G.O.(Ms.)No.128, Housing and Urban Development Department dated 24.03.1997, took a policy decision to sell the labor tenements to the original allottees or legal heirs of the deceased allottees. The allotments to weaker section of the community were unauthorizedly transferred to other persons without approval of TANSIDCO. On verification, it was found that 46 persons, including the petitioner are unauthorizedly in occupation of the tenements. As per the instruction in Express Memo No.15437/IE-5/2002-1 dated 10.10.2019 issued by the TANSIDCO Head Office, proceedings were initiated under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act 1975 and Form - A and Form B notices were issued and after enquiry, eviction was ordered. The petitioner, instead of vacating the tenement No. 71, filed W.M.P.No.31947 of 2019 in W.P.No.31743 of 2019 and the said W.M.P. is still pending before this Court.

4(b).Plot in OP.No.7 was allotted to the 7th respondent on outright basis. The 7th respondent paid the entire sale consideration, but sale deed was not executed and possession was not handed over to the 7th respondent. Hence, 7th respondent filed W.P.No.27090 of 2003. As per the orders of this Court dated 04.08.2006 made in W.P.No.13940 of 2006, the sale deed was executed in favour of the 7th respondent and possession was handed over to the 7th respondent. The 2nd respondent gave "No Objection Certificate" to the Building Plan for the proposed construction of the building in the Plot in OP. No.7. The Government, in G.O.(Ms).No.155 MSME (C) Department dated 13.11.2009, ratified the allotment of the Developed Plot in OP.No.7 allotted to the 7th respondent. The petitioner, as president of Thozhilalar Kudiyiruppor Nala Sangam filed W.P.No.13940 of 2006 against the respondents 1 to 3 herein for Writ of Mandamus, forbearing the respondents from allotting the land under the High Tension Power Corridor adjoining D Block of the Labor tenements at Ambattur Industrial Estate, Chennai 58 to any one else or put the same for use of any other purpose on the ground that the members of the Thozhilalar Kudiyiruppor Nala Sangam are all using the same as a pathway for their ingress and egress to the tenements across the High Tension Power Corridor and members of the said Sangam came to know that the respondents 1 to 3 are going to allot the pathway to third parties. This Court, taking note of its order dated 19.11.2004 made in W.P.No.27090 of 2003 filed by the 7th respondent, dismissed the Writ Petition as allotment of Plot in OP.No.7 to 7th respondent was upheld by this Court.

4(c).All the roads formed by the TANSIDCO/the 2nd respondent herein are internal roads and there is no access earmarked in



the lay out allotted by the petitioner. The W.P.No.13940 of 2006 filed by the petitioner as President of Thozhilalar Kudiyiruppor Nala Sangam for Mandamus for similar relief was dismissed by this Court on 04.08.2006. The petitioner cannot claim a pathway, which is mentioned as road to connect Mogappair Road of Satya Nagar, Padi with Ambattur Industrial Estate, as there is no such pathway in Ambattur Industrial Estate layout. The petitioner and occupants of the tenements were unauthorizedly using TANSIDCO road to access Mogappair Road outside Ambattur Industrial Estate. Many anti-social/illegal activities were carried out in the SIDCO land by using the said so called pathway which does not exist in the layout. Heaps of garbage from outside Ambattur Industrial Estate are being dumped by the unauthorized passersby, who use the said pathway. In order to prevent the unauthorized use of pathway, the 4th respondent temporarily closed the pathway. The petitioner illegally removed the fencing and structures without the knowledge of TANSIDCO and illegally made way for trespassers into Ambattur Industrial Estate. There is no access provided in the Ambattur Industrial Estate layout from SIDCO road to the Mogappair road. The petitioner and labor tenement occupants have been unauthorizedly using the said road as a short cut. The access of the trespassers into the Ambattur Industrial Estate has to be prevented to avoid illegal activities in the Estate by the trespassers, also to prevent unauthorized dumping of heaps of garbage and safeguard the homogeneity of Ambattur Industrial Estate and prayed for dismissal of the Writ Petition.

5(a).The 8th respondent filed counter affidavit and denied all the averments made by the petitioner. The 8th respondent filed typed set of papers and referred to copies of allotment order issued to the 7th respondent, orders in W.P.No.27090 of 2003 filed by the 7th respondent, order dated 07.11.2005 in W.A.No.1911 of 2005 filed by the respondents 2 and 3, W.P.No.13946 of 2006 filed by Thozhilalar Kudiyiruppor Nala Sangam, represented by the petitioner, combined layout plan, photographs and letters in the typed set of papers.

5(b).The learned counsel appearing for the 8th respondent submitted that the Writ Petition is not maintainable. The petitioner has no locus standi to claim the relief sought for in the Writ Petition, especially, when the earlier W.P.No.13940 of 2006 filed by the petitioner was dismissed. The claim of the petitioner is barred by principles of resjudicata.

5(c).As per the approved plan, the labor quarters are having separate road to connect with other nearby areas. The SIDCO, as per the approved plan, had laid roads in the Industrial area to provide unhindered road access to the factories/establishments. One such road is 5th Lane of the 1st



Main Road which provides access to Plot in OP.Nos.1 to 8 and ends with OP.No.7. Before the Plot in OP.No.7 was allotted to the 7th respondent, the residents of nearby labor tenements were using the said Plot to reach 5th Street and used 3 feet gap to reach Mogappair Road as a short cut, even though there is a separate road available in the labor tenement. When as per the orders of this Court, the SIDCO took steps to hand over the Plot in OP.No.7 to the 7th respondent, the petitioner, through the Thozhilalar Kudiyruppor Nala Sangam, filed W.P.No.13940 of 2006 for issue of Mandamus, restraining the respondents 1 and 2 from allotting the land under the High Tension Power Corridor adjoining D Block of the Labor tenements at Ambattur Industrial Estate, Chennai 58 to any one else or put the same for use of any other purpose. This Court, by the order dated 04.08.2006, dismissed the Writ Petition.

5(d). As per the representation of the 8th respondent, the 4th respondent, on 19.12.2020, closed 3 feet illegal passage with iron girder, but on the next day itself, a bunch of people from labor tenements removed the block. A complaint dated 23.12.2020 was given to the concerned Police Station and the Police issued CSR No.1087/2020 on 23.12.2020. The 4th respondent put up wired fence around Plot in OP.No.6 on 19.03.2021, to prevent an entry from labor quarters. On 21.03.2021, the occupants of labor quarters cut down/broken the wire fencing. As per the orders of this Court, the respondents 1 and 2 handed over the possession of Plot in OP.No.7 to the 7th respondent and the 2nd respondent conveyed the property to the 7th respondent vide Document No.4876/2010. The 7th respondent, on 04.01.2007, had obtained planning and building permission from the competent authority. The 7th respondent, as per the approved plan, put up a work shed and commenced production. Subsequently, The 8th respondent, by the sale deed dated 15.06.2020 vide Document No.1952/2020, purchased the property from the 7th respondent, carried out repairs and commenced production.

5(e).The First Main Road of the Ambattur Industrial Estate is a private road and it is for the use of the factories and establishments situated on both sides of 5th Lane and it ends at Plot in OP.No.7. It is not connecting with Mogappair Road of Satya Nagar. The residents of nearby labor tenements are unauthorizedly using 3 feet gap for reaching Mogappair road. Due to the unauthorized use of the 5th Lane, loading and unloading of the materials going out and coming in are affected to the factories. The industrial waste are dumped and they create various sorts of nuisance and the petitioner is creating trouble to female workers who are leaving late in the evening. Due to unauthorized use, the occupants of the factories in the 5th Lane are facing safety and health hazards. The learned counsel appearing for the 8th respondent further submitted that the Writ Petition is maintainable only when there is violation of



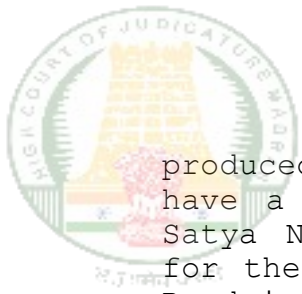
fundamental or constitutional rights. In this case, there is no such violation and prayed for dismissal of the Writ Petition.

6. Though notice has been served on the 7th respondent and its name is printed in the cause list, there is no representation for them either in person or through counsel.

7. Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the 1st respondent, learned counsel appearing for the respondents 2 & 3, 8th respondent as well as the respondents 5 and 6 and perused the entire materials available on record.

8(a). The petitioner has come out with the present Writ Petition, seeking the relief for the residents of 201 labor tenements in 32 Blocks at Ambattur Industrial Estate, that the 35 feet road is the connecting road of First Main Road of Ambattur Industrial Estate with Mogappair Road of Satya Nagar, Padi. It is the further case of the petitioner that the 7th respondent to whom Plot in OP.No.7 was allotted admitted the existence of the road and 8th respondent, who purchased the said plot from 7th respondent is bound by the said admission. The residents of labor tenements were using the said road for more than 40 years and respondents 4 and 8 are estopped from closing the road and preventing the residents of labor tenements from using the said road.

8(b). On the other hand, it is the case of the respondents that all the roads in Ambattur Industrial Estate, including 5th street at First Main Road is meant for use by the factories and establishments in the Industrial Estate and roads in Industrial Estate is not for use by third parties. The residents of labor tenements have separate roads to reach other areas and 5th street is not connecting road to be used by third parties and residents of labor tenements. From the materials on record, it is seen, the Ambattur Industrial Estate was established in the year 1963, spreading for 1167 acres to cater the needs of industrial entrepreneurs. From the copy of the approved lay out filed by the 8th respondent in the typed set of papers, it is seen that number of plot vary in sizes have been established with main roads and side roads. The 5th Lane in first main road provides access to Plot in OP.Nos.1 to 8 and ends in OP.No.7 and it is not a connecting road to Mogappair road in Satya nagar. All the roads in Ambattur Industrial Estate were meant to use by officials, employees and workers of industries and establishments in the estate only. The respondents have contended that residents of labor tenements and others unauthorizedly use a small gap at end of the 5th street at Plot in OP.No.7 and industrial waste are dumped in the estate, causing health hazards. The 8th respondent has produced photographs to substantiate this contention. Further, the petitioner has not denied that residents of labor tenements have other road to reach the Mogappair road. The petitioner has not



produced any materials to show that residents of labor tenements have a right to use the 5th street to reach Mogappair road in Satya Nagar. The petitioner also has not produced layout plan for the labor tenements to show that 5th lane in the First Main Road is the connecting road for the residents to reach Mogappair road. When the petitioner has not established the right to use 5th lane in Ambattur Industrial Estate, the Writ Petition is not maintainable for the relief sought for. Further, this Court, on 04.08.2006, dismissed the earlier W.P.No.13940 of 2006 filed by Thozhilalar Kudiyiruppor Nala Sangam, represented by the petitioner as President of the said Sangam, forbearing the respondents from allotting the land under the High Tension Power Corridor adjoining D Block of the Labor tenements at Ambattur Industrial Estate, Chennai 58 to any one else or put the same for use of any other purpose and therefore, the present Writ Petition is not maintainable.

8(c).The petitioner is no longer an office bearer of the Thozhilalar Kudiyiruppor Nala Sangam. As per G.O.(Ms.)No.128, Housing and Urban Development Department dated 24.03.1997, the petitioner was identified as one of the unauthorized occupants of the labor tenements as he purchased the plot from original allottee without obtaining approval from the concerned authorities. The proceedings also has been initiated as per the provisions of Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act 1975 and eviction of petitioner from the Labor Tenement No.71 had been ordered. The petitioner now being an unauthorized occupant and eviction also been ordered, is not entitled to maintain the present Writ Petition and the petitioner is not entitled for the relief sought for in this Writ Petition.

For the above reason, the Writ Petition is dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

gsa



To

1. The Secretary,
State of Tamil Nadu,
Department of Housing and Urban Development,
Fort St. George, Chennai 600 009.
2. The Managing Director,
Tamil Nadu Small Industries Development Corporation Ltd.,
SIDCO Corporate Office Building,
Thiru.Vi.Ka. Industrial Estate, Guindy,
Chennai 600 032.
3. The Branch Manager Cum Estate Manager,
Tamil Nadu Small Industries Development Corporation Ltd.,
SIDCO Administrative Office Block,

Industrial Estate, Ambattur,
Chennai 600 058.
4. The Managing Director,
Chennai Auto Ancillary Industrial
Infrastructure Upgradation Company,
2nd Main Road, Nolambur Phase - 1,
Nolambur, Ambattur Industrial Estate,
Chennai 600 058.
5. The Managing Director,
Tamil Nadu Transmission Corporation Ltd (TANSTRANSCO)
10th Floor, NPKRR Maligai,
144, Anna Salai, Chennai 600 002.
6. The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation
Chennai North Electricity Distribution Circle
Z-A, 182, 5th Avenue, Anna Nagar West,
Z-Block, S-Block, Anna Nagar,
Chennai 600 040.

+1cc to Mr.S.P.Prabhakaran, Advocate SR.No.20164

+1cc to M/s.Paul and Paul, Advocate SR.No.20693

+1cc to Government Pleader SR.No.20658

W.P.No.3195 of 2021

AJS (CO)
GMY (19/04/2022)