

(2007) 06 MAD CK 0165

In the Madras High Court

Case No : Writ Petition No. 470 of 1999 and W.P. M.P. No. 12866 of 2006

Hindustan Lever colony Residents Welfare Association

APPELLANT

Vs

District Collector and Executive Officer, Pammal Town
Panchayat

RESPONDENT

Date of Decision : 07-06-2007

Acts Referred:

Citation : (2007) 06 MAD CK 0165

Hon'ble Judges : S. Rajeswaran, J

Bench : Single Bench

Advocate : C. Selvaraj, for S. Mani, for the Appellant; V. Bhavani Subbarayan, Government Advocate for R.1 and K.R. Tamilmani, for R.2, for the Respondent

Final Decision : Dismissed

Judgement

S. Rajeswaran, J.—This writ petition has been filed for the issue of a Writ of Mandamus directing the Respondents not to interfere with the places reserved for the purpose of construction of community Hall and developing Park in the approved Lay Out and to keep free from encroachment by the members of the Panchayat Board in Survey No. 24/21 and 24/22, Pammal Village, Saidapet Taluk.

2. This writ petition has been filed by Hindustan Lever Colony Residents Welfare Association. It is their case that the employees working in Hindustan Lever Company formed a Cooperative Society, purchased lands and formed lay out for their residential purposes in Survey Nos:20/2, 20/3, 21, 24, 24/2, 26 and 27/5 at Pammal Village. In the approved lay out 9 grounds were reserved for the construction of a Community Hall and a Park. The Association submitted an application to the second Respondent in 1991 for construction of the Community Hall. Till date, it has not been approved and therefore the area is still lying vacant, which is protected by them with a fence.

3. According to the Petitioner-association, the Council Members who were holding the Office were trying to encroach the vacant lands and they sent a number of

representations in this regard. As no steps were taken, they have filed the above Writ Petition for the aforesaid relief.

4. The Respondents entered appearance and a counter affidavit has been filed by the second Respondent, wherein it is stated as follows:

2.1 submit that the lands in question as per the approved lay out in LPM DTP 50/66 revised in LPM DTP 37/67 meant for common purpose in about 10 grounds. The normal procedure is to hand over the land to the local body by a gift deed by the promoter. Though the lands were taken over by the 2nd Respondent, no formal deed was executed by the promoter. However during the year 1998 some of the members of the Petitioner's association wanted to usurp the lands meant for common purposes by way of a barbed fence but the officials of the 2nd Respondent thwarted the attempt by snatching the material meant for fencing. However, on a personal representation by the Secretary to see that no one occupies the land in question, the materials were returned to the Secretary on 25.8.1998. Thereafter the Association started hurling various abuses against the local body and the then councilors without any basis or factual materials.

3. It is submitted that Government in their G.O.(3D) No. 13, Municipal Administration and Water Supply Department dated 27.5.1999 have accorded administrative approval for providing Minimum Infrastructure Facilities for extending Water Supply to Alandur and 11 other adjacent Local Bodies including the 2nd Respondent Town Panchayat at a cost of Rs. 28.54 crores and appointed Chennai Metropolitan Water Supply And Sewerage Board to construct a 10 Lac liters capacity underground tank and pump house at Pammal and laid conveyor main and feeder main for a length of 7450 liters to Pammal and Anakaputhur Town Panchayat at an estimated cost of Rs. 390 lakhs. For selection of site for the implementation of project the Technical team from Chennai Metropolitan Water Supply and Sewerage Board has inspected various sites and finally concluded their opinion to put up the above project on the land in question i.e., reserved for common purposes in the above lay out because of its suitability and situation. Accordingly, the subject matter was placed in its meeting on 4.1.1999 at the Pammal Town Panchayat Council and as per Resolution No. I (one) the council has decided to place the above land at the disposal of Chennai Metropolitan Water Supply and Sewerage Board and thus u-nanimously passed the above Resolution. Then the council approved to seek financial assistance of Rs. 357 lakhs of loan component and 21 lakhs of grant from Tamil Nadu Urban infrastructure Financial Services Ltd., and the same was disbursed. Accordingly, the scheme was completed and regular water supply is undertaken to all the streets and individual houses both in Pammal and Anakaputhur Municipality.

4. it is submitted-that after completion of the scheme for storage and supply of 10 lakhs liters capacity of water underground tank, pump house and pumping system the entire land area has been completely safeguarded by a pucca compound wall constructed by the second Respondent. As on date, there is no encroachments. The land is fully utilised for the public purpose of water supply

and all the streets and houses of the Petitioner Association is happily drawing water from the scheme, among other streets in both Pammal and Anakaputhur Municipalities.

5. It is further submitted that the land is under the full control of this 2nd Respondent and is not used for any other purpose than the above public purpose. It is further undertaken by this Respondent that no one would be allowed to encroach upon the lands by creating any private interest and the land will be preserved as it is as on date.

5. Heard Mr. C. Selvaraj, the learned Senior Counsel appearing for the Petitioner, the learned Counsel appearing for the second Respondent and the learned Government Advocate appearing for the first Respondent. I have also perused the documents filed in support of their submissions.

6. In view of the averments contained in the counter affidavit sworn to by Mr. M. Chandrasekarn, Executive Officer, I do not find any merits in this writ petition.

7. However, the Petitioner-Association filed WPMP. No. 12866 of 2006 praying to amend the prayer. The Petitioner-Association now wanted the prayer of paying compensation to the Association for the lands occupied by the second Respondent in an area of 4367 sq.ft., and also forbearing the Respondents from interfering with the places reserved for the purposes of construction of Community Hall and developing Park in the approved lay out excluding the lands in which the underground tanks and pump house were put up by the second Respondent in an extent of 4367 sq.ft..

8. In effect, the new prayer sought to be introduced by the writ Petitioner is to pay a compensation for the lands occupied by the second Respondent in an area of 4367 sq.ft., apart from the original prayer excluding the above said 4367 sq.ft., from the extent of 9 grounds, which were earmarked for Community Hall and Park.

9. Considering the fact that the lands in question meant for a common purpose, it is not feasible to grant the original prayer as well as the prayer now sought to be introduced. Insofar as the prayer for compensation is concerned, it is for the Petitioner-Association to prove that they are entitled to compensation, that too, against the second Respondent in an appropriate proceeding in an appropriate forum. Hence the amendment petition, namely, WPMP. No:12866 of 2006 is also dismissed.

10. In the result, the Writ Petition and the WPMP. No:12866 of 2006 are dismissed. No costs.