

Ayesha Bee Vs. A.Sarangan

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Court : Chennai

Decided On : Jul-10-2014

Judge : N.Paul Vasanthakumar

Appellant : Ayesha Bee

Respondent : A.Sarangan

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED:

10. 07.2014 CORAM: The Honourable Mr. Justice N. PAUL VASANTHAKUMAR and The Honourable Mr. Justice K. RAVICHANDRABAABU Writ Appeal Nos. 2450 and 2478 of 2013 and M.P.Nos.1 and 2 of 2013 and 1 of 2014 --- Ayesha Bee .. Appellant in W.A. No.2450/2013 R4 in W.A. No.2478/2013 vs.

1. A. Sarangan 2. The Corporation of Chennai rep. by its Commissioner Ripon Buildings Chennai 600 003.

3. The Executive Engineer (Zone 4) Town Planning Section Works Department Corporation of Chennai .. R1 to R3 in both appeals Ayanavaram, Chennai 600 023.

4. CRB Welfare Association rep. by its President Mr. R.P. Subramanian Chengalvarayan Street, Swarna Maligai No.6, Reddy Colony, Ramalingapuram Chennai 600012. .. R4 in W.A.No.2450/2013 & Appellant in W.A.No.2478/2013

PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent, against the Order dated 18.11.2013 passed by the learned single Judge in Writ Petition No.19540 of 2011 on the file of this Court. --- W.A.No.2450/2013: For Appellant : Mr. A. Rajendra Kumar For Respondents : Mr. M. Saravana Kumar for R1 Mr. V.C. Selvasekaran Standing Counsel for R2 & R3 Ms. Vedavalli Kumar for R4 --- COMMON

JUDGMENT

(Delivered by K. RAVICHANDRABAABU,J.) Both these writ appeals are filed against the order made in Writ Petition No.19540 of 2011 dated 18.11.2013. In one writ appeal, the third respondent in the writ petition is the appellant and another writ appeal, the fourth respondent is the appellant.

2. The first respondent in these writ appeals, who is the petitioner before the writ Court, has filed the above said writ petition for a Mandamus directing the second respondent Corporation to release the letter of sanction/approval as informed to the petitioner in letter dated 24.6.2011.

3. It is the case of the writ petitioner that he purchased the property from one Nammalwarpet Co-operative House Site Limited by way of a registered sale deed dated 08.12.1982, wherein he wanted to put up construction by demolishing the old structure. Therefore, he approached the Corporation and sought for planning approval. It is the further case of the petitioner that he was informed through letter dated 24.6.2011 that his application has been processed and found approved and he has also been directed to pay the fees/charges to the tune of Rs.59,480/-. In spite of complying with all demands, the second respondent in the writ petition, namely, Corporation of Chennai, has not released the order of approval and planning permission and therefore, the writ petitioner has approached this Court by way of filing the above said writ petition with the prayer stated supra.

4. The said writ petition was heard by the learned single Judge and after hearing both sides, the learned Judge ordered the writ petition by holding that the petitioner is entitled to construct a building as per the approval sanctioned by respondents 1 and 2 and further directed that if there is any deviation, it is for the second respondent to take action against the petitioner. The learned Judge has

also directed the second respondent to release the document dated 24.6.2011 as sanctioned by him within a period of two weeks.

5. It was contended by the Corporation before the learned single Judge that the document had not been released because of the pendency of a civil revision petition before this Court arising out of the civil dispute between the petitioner and the other private respondents.

6. Now, these writ appeals are filed by respondents 3 and 4 by contending that the writ petitioner is trying to put up construction not in his private property, but on the other hand in a public pathway. According to them, it is not his private property and therefore, the sanction/approval cannot be granted by the Corporation.

7. Admittedly, the writ petitioner has applied for grant of sanction/approval before the Corporation of Chennai for putting up construction in the property in dispute. In the counter affidavit filed by the Corporation before the learned single Judge, it has been stated at paragraph 6 as follows: 6. I respectfully submit that the petitioner Thiru.Sarangan submitted the Planning Permission Application with xerox copy of documents for sanction of PPA/WDCO4/02948/2011, dated 16.6.2011 and it was scrutinized. The petitioner furnished the documents with patta issued by the Tahsildar, Purasawakkam-Perambur Taluk Office (C.A.504/2011 in SD/T.R.817/2010/2011, dated 27.5.2011) in favour of the petitioner. After verifying the documents, the PPA was sanctioned on 24.6.2011 and advice notice dated 24.6.2011 was issued to the petitioner for remittance of fees and the petitioner remitted the fees on 20.7.2011. 8. Thus, from the stand taken by the Corporation, as stated in the counter affidavit, it is seen that the approval was sanctioned only after verifying the documents furnished by the petitioner, who enclosed the patta issued by the Tahsildar at Purasawakkam-Perambur Taluk. If the appellants are still having any grievance with regard to the title to the property, for which the approval is granted, it is always open to them to agitate before the competent civil Court and establish their rights. It is further contended by the appellants that civil suits are pending between the parties and a civil revision petition is also pending. But, it is also admitted by the appellants that no order preventing the Corporation from releasing the document or preventing the petitioner from putting up

construction has been granted by any Court in any of these proceedings. Therefore, considering the fact that the Corporation has already sanctioned the approval, which has been directed by learned single Judge to release the document/approval to the writ petitioner, we find that no grounds are made out to interfere with the order passed by the writ Court. Accordingly, these writ appeals are dismissed. However, it is made clear that the parties are at liberty to agitate the matter before the competent civil Court and establish their respective right and claim over the property in dispute independently without reference to the orders passed by this Court both in the writ petition as well as in these writ appeals.

9. It is further represented by the learned counsel for the appellants that the construction to be put up by the first respondent/writ petitioner may be subject to the outcome of the orders to be passed by the civil Court. Needless to say that any construction by the petitioner is always subject to the orders to be passed by the civil Court and the writ petitioner cannot take advantage of the orders passed by this Court in these proceedings to claim equity latter. The second respondent-Corporation is directed to release the document within two weeks from the date of receipt of a copy of this order. No costs. Consequently, M.P. Nos.1 (2 petitions) and 2 of 2013 and 1 of 2014 are also dismissed. Index : yes/no (N.P.V.,J) (K.R.C.B.,J) Internet : yes/no 10th July, 2014. Note:- Issue order copy on 15.7.2014. ATR To 1. The Commissioner Corporation of Chennai Ripon Buildings Chennai 600 003.

2. The Executive Engineer (Zone 4) Town Planning Section Works Department Corporation of Chennai Ayanavaram, Chennai 600 023. N. PAUL VASANTHAKUMAR,J, and K. RAVICHANDRABAABU,J.

ATR W.A. Nos.2450 & 2478 of 2013 10.7.2014

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