

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 9849-9852 OF 2003

JINI DHANRAJGIR AND ORS. Appellant (s)

VERSUS

COMMNR., CORPN. OF CHENNAI AND ORS. Respondent(s)

(With office report)

Date: 17/08/2010 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MR. JUSTICE T.S. THAKUR

For Appellant(s) Mr. R.F. Nariman, Sr. Adv.
Mr. Arvind Minocha, Adv.
Mr. Goerge Cherian, Adv.
Ms. Veena Minocha, Adv.
Mr. Randhir Singh, Adv.

For Respondent(s) Mr. G. Umapathy, Adv.
Mr. M.M. Manivel, Adv.
Mr. Rakesh K. Sharma, Adv.
Mr. R. Nedumaran, Adv.

Respondent No. 1 Mr. S. Thananjayan, Adv.

For CMDA Mr. T. Harish Kumar, Adv.
Mr. P. Prasanth, Adv.
Mr. V. Vasudevan, Adv.

Respondent No. 3 :1:
Ms. Indira G., Adv.
Mr. K.V. Jagdishvaran, Adv.
Mr. John Mathew, Adv.

UPON hearing counsel the Court made the following
O R D E R

The Appeals are allowed. No costs.

(Rajesh Dham)
Court Master

(Indu Satija)
Court Master

(signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO(s). 9849-9852 OF 2003

JINI DHANRAJGIR AND ORS.

Appellant (s)

VERSUS

COMMNR., CORPN. OF CHENNAI AND ORS.

Respondent(s)

O R D E R

These Appeals, by special leave, arise out of an order dated 05.02.2003 passed by the High Court of Madras whereby Writ Appeals Nos. 2307 to 2310 of 2002 arising out of the dismissal of the writ petitions filed by the appellants have been dismissed.

The facts giving rise to filing of these Appeals have been set out in the orders passed by the High Court, hence we need not repeat the same here. Suffice it to say that a large plot of land bearing Old No. 5 (New No. 11) owned by Dr. P.V. Cherian and situate at Egmore, Chennai was sub-divided into four plots on the demise of the owner Dr. Cherian. One of the said sub-divided plots appears to have fallen to the share of the wife of the third respondent in these Appeals. On the demise of his wife, the third respondent succeeded to the estate left behind by her wife,

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that included the plot in question. The third respondent, in turn, appears to have engaged respondent No. 4 herein, who happens to be a builder, for developing the said sub-divided plot into four smaller plots, and made an

application to the respondent-Corporation for permission to sub-divide the said plot. The permission prayed for was granted by the Corporation in terms of the approval of the sub-division plan (Annexure P-3 of the paper-books), aggrieved whereof the appellants who own the adjacent plot filed writ petitions before the High Court for quashing the permission granted to sub-divide the plot in question, inter alia, on the ground that sub-division permitted by the Corporation was not legally justified. The learned single Judge was, however, of the opinion that since the third respondent had filed a suit against the Corporation restraining it from interfering with the on-going construction on the said plot, it would be more appropriate for the appellants to get themselves impleaded therein to agitate their grievance. The writ petitions were accordingly dismissed.

Feeling aggrieved by the order of the learned single Judge, the appellants filed Writ Appeals Nos. 2307 to 2310

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of 2002 before the Division Bench of the High Court which appeals have been dismissed by the High Court in terms of the impugned judgment, as already noticed earlier. The present Appeals, by special leave, assail the correctness of the said order of the High Court.

Having heard the learned counsel for the parties at some length, we are of the view that the matter needs to be remitted back to the competent authority in the Corporation to pass a reasoned order on the prayer made on behalf of the third respondent for grant of permission to sub-divide the plot in question. We say so because the competent authority has not recorded any reason in support of its order granting permission to sub-divide the plot in question nor disclosed

awareness about the provisions of Rule 4(d) of the Development Control Rules for Chennai Metropolitan Area as amended from time to time and Rule 19 thereof, to which our attention has been drawn by Mr. R.F. Nariman, learned senior counsel, in the course of his submissions. While we do not propose to express any final opinion as to whether or not sub-division of the plot in question as prayed for by the third respondent was permissible in the light of the said

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provisions, we are of the view that in the absence of a reasoned order from the competent authority in the Corporation, grant of permission to sub-divide the plot in question simply by approving the sketch of sub-division plan would not suffice. In fairness to learned counsel for the Corporation and respondents Nos. 3 and 4, we must point out that they were not averse to the matter being remitted back so that the competent authority in the Corporation could consider the prayer for sub-division of the plot in question afresh and pass appropriate orders in accordance with law after considering the objections which the appellants may file to the same.

We are told that since the prayer to sub-divide the plot in question has elapsed with passage of time, respondents Nos. 3 and 4 may move a fresh application for grant of the said prayer. Be that as it may, the competent authority in the Corporation would do well to re-examine the entire issue regarding the prayer to sub-divide the plot in question and pass appropriate orders on the subject expeditiously but not later than two months from the date a copy of this order is received by the Corporation.

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In the result, we allow these Appeals, set aside the orders passed by the learned single Judge and the Division Bench of the High Court and remit the matter back to the competent authority in the Corporation for appropriate orders to be passed afresh keeping in view the observations made herein above. No costs.

.....J.
(MARKANDEY KATJU)

.....J.
(T.S. THAKUR)

NEW DELHI
AUGUST 17, 2010.