

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.11790 of 2013 and M.P.No.1 of 2015

S.Subha

...Petitioner

Vs

The Executive Officer,
Perungalathur Town Panchayat at
Perungalathur,
Kancheepuram District

...Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the Executive Officer, Perungalathur Town Panchayat, Perungalathur, kancheepuram District made in Na.Ka.No.526/2012/A2, dated 22.10.2012, to quash the same and consequently direct the respondent herein to consider and issue the building plan approval as sought by the petitioner by her application dated 01.08.2012 with respect to the property bearing Plot No.24, Balaji Nagar and comprised in S.Nos.259/1 and 260, Bharathi Nagar, VIII street, Perungalathur, Kancheepuram District and to issue appropriate directions directing the respondent herein to consider and issue the building plan approval as sought by the petitioner by her application dated 01.08.2012 with respect to the property stated supra.

For Petitioner :Mr. N.Damodaran

For Respondent :Mr.K.Karthikeyan
Government Advocate

O R D E R

Heard Mr.N.Damodaran, learned counsel for the petitioner and Mr.K.Karthikeyan, learned Government Advocate appearing for the respondent.

2.The petitioner seeks to quash the proceedings dated 22.10.2012 in and by which the respondent rejected the petitioner's request for grant of planning permission on the ground that land in question was shown as a land meant for public street in the lay out plan, which was submitted by the F.C.I. Employees Co-operative House Building Society.

3.Though elaborate submissions were made on either side, the dispute in this Writ Petition lies in a very narrow campus. F.C.I. Employees Co-operative House Building Society entered into agreement with the petitioner on 19.04.1993. The land of the petitioner were converted into housing lay out, accordingly, lay out plan was prepared, in which lands, which is the subject matter of the Writ Petition were shown as public streets/roads. The application was submitted to CMDA for approval. But the same was returned un-approved by proceedings dated 24.10.2002. Thereafter, the said F.C.I. Employees Co-operative House Building Society did not represent the plan as there appears to have been change in proposal owing to which the Society stated that they did not require the lands any more. In this regard, the Society has written a letter dated 08.07.2010 to the petitioner. Since by then sale deed had been executed by the petitioner in favour of the Society, the co-operative society inturn executed a sale deed in favour of the petitioner by a sale deed dated 26.12.2011. Therefore, the petitioner submitted that she is absolutely entitled to the property in question and sought for grant of planning permission and impugned order has been passed in terms that the land continues to form part of the approved lay out.

4.The petitioner's case is that land was not utilised in the lay out and has been re-conveyed to the petitioner by the Society. Therefore, before passing the impugned order, the respondent ought to have been verified the details from the CMDA so as to ascertain whether the submission made by the petitioner is factually correct. Without doing so, the respondent has passed the impugned order, which is not tenable.

5. Hence for the above said reasons, the Writ Petition is allowed and the impugned order is set aside. The matter is remanded to respondent for fresh consideration. The respondent shall obtain requisite details from CMDA, thereafter, issue notice to the petitioner, afford an opportunity of fresh hearing and take a fresh decision in the matter in accordance with law

within a period of three months from the date of receipt of copy of the order. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

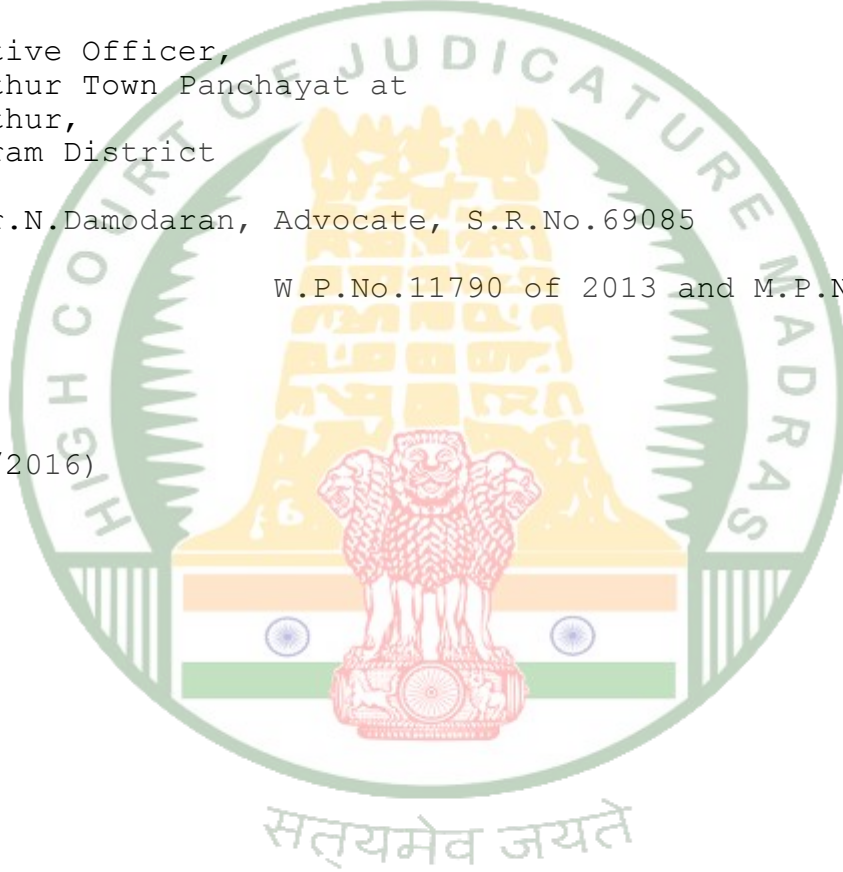
To

The Executive Officer,
Perungalathur Town Panchayat at
Perungalathur,
Kancheepuram District

+1cc to Mr.N.Damodaran, Advocate, S.R.No.69085

W.P.No.11790 of 2013 and M.P.No.1 of 2015

su(CO)
srg(08/01/2016)



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