

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.40367 to 40373 of 2015

K.Purushothaman
represented by his Power of Attorney,
Mrs.R.Vasanti Ram Narayan,
W/o. Mr.S.Rama Narayanan,
No.32, Ramachandra Road,
Nehru Nagar, Chromepet, Chennai - 600 044.
...Petitioner in WPs.40367,40369 & 40371/15

Mrs.R.Vasanti Ram Narayan,
W/o. Mr.S.Rama Narayanan,
No.32, Ramachandra Road,
Nehru Nagar, Chromepet, Chennai - 600 044.
...Petitioner in WPs.40368,40370 & 40372/15

M/s.Shabhari Real Estate Pvt. Ltd.,
Rep.by its Managing Director Mr.S.Sekar,
No.14, Kamaraj Avenue,
Chennai - 64.
...Petitioner in WP.40373/15

1. The Member Secretary,
Chennai Metropolitan Development Authority,
"Thalamuthu Natarajan Building",
1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.

2. The Executive Officer,
Madambakkam Town Panchayat,
Chennai - 600 073.
... Respondents
in all WPs

W.P.No.40367 of 2015 : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records pertaining to the impugned orders under Ref.Na.Ka.No.19/2015, dated 22.05.2015 relating to Planning Permission No.93/2011 and File No.445/2011 dated 26.05.2011 in respect of S.No.609/1 and quash the same and consequently direct the respondents to confirm the layout as originally applied for by the petitioners.

W.P.No.40368 of 2015 : A Writ of Certiorarified Mandamus or any other writ, direction or order Calling for the records pertaining to the impugned orders under Ref.Na.Ka.No.19/2015, dated 22.5.2015 relating to Planning Permission No.136/2011 and File No.511/2011, dated 15.6.2011 in respect of S.No.577/1, and quash the same and consequently direct the Respondents to confirm the layout as originally applied for by the Petitioner.

W.P.No.40369 of 2015 : A Writ of Certiorarified Mandamus or any other writ, direction or order Calling for the records pertaining to the impugned orders under Ref.Na.Ka.No.19/2015, dated 22.5.2015 relating to Planning Permission No.94/2011 and File No.444/2011 dated 26.5.2011 in respect of S.No.609/1 and quash the same and consequently direct the Respondents to confirm the layout as originally applied for by the Petitioner.

W.P.No.40370 of 2015 : A Writ of Certiorarified Mandamus or any other writ, direction or order Calling for the records pertaining to the impugned orders under Ref.Na.Ka.No.19/2015, dated 22.5.2015 relating to Planning Permission No.135/2011 and File No.514/2011 dated 15.6.2011 in respect of S.No.577/1 and quash the same and consequently direct the Respondents to confirm the layout as originally applied for by the Petitioner.

W.P.No.40370 of 2015 : A Writ of Certiorarified Mandamus or any other writ, direction or order Calling for the records pertaining to the impugned orders under Ref.Na.Ka.No.19/2015, dated 22.5.2015 relating to Planning Permission No.92/2011 and File No.443/2011 dated 26.5.2011 in respect of S.No.609/1 and quash the same and consequently direct the Respondents to confirm the layout as originally applied for by the Petitioner.

W.P.No.40370 of 2015 : A Writ of Certiorarified Mandamus or any other writ, direction or order Calling for the records pertaining to the impugned orders under Ref.Na.Ka.No.19/2015,

dated 22.5.2015 relating to Planning Permission No.138/2011 and File No.513/2011 dated 15.6.2011 in respect of S.No.577/1 and quash the same and consequently direct the Respondents to confirm the layout as originally applied for by the Petitioner.

W.P.No.40370 of 2015 : A Writ of Certiorarified Mandamus or any other writ, direction or order Calling for the records pertaining to the impugned orders under Ref.Na.Ka.No.19/2015, dated 22.5.2015 relating to Planning Permission No.137/2011 and File No.512/2011 dated 15.6.2011 in respect of S.No.577/3 and quash the same and consequently direct the Respondents to confirm the layout as originally applied for by the Petitioner.

For Petitioner : Mr.V.Bhiman
For M/s.Sampath Kumar and Associates

For 1st Respondent : Mr.K.Raja Srinivas

For 2nd Respondent : Mr.R.Rajeswaran
(In WP.Nos.40367 & 40368/15) Special Government Pleader

For 2nd Respondent : Mr.N.Srinivasan
(In WP.Nos.40369 & 40370/15) Additional Government Pleader

For 2nd Respondent : Mr.S.Diwakar
(In WP.Nos.40371 to 40373/15) Additional Government Pleader

COMMON ORDER

Heard Mr.V.Bhiman, learned counsel for the petitioners and Mr.K.Raja Srinivas, learned counsel accepting notice on behalf of the 1st respondent in all the writ petitions and Mr.R.Rajeswaran, learned Special Government Pleader for the 2nd respondent in W.P.Nos.40367 & 40368 of 2015; Mr.N.Srinivasan, learned Additional Government Pleader for the 2nd respondent in W.P.Nos.40369 & 40370 of 2015; and Mr.S.Diwakar, learned Additional Government Pleader for the 2nd respondent in W.P.Nos.40371 to 40373 of 2015.

2.The petitioners are aggrieved by the proceedings issued by the 2nd respondent dated 22.05.2015 in and by which a layout approval granted in favour of the petitioners dated 26.05.2011 and 15.06.2011 respectively was cancelled without notice to the petitioners. In the impugned order, it has been stated that on

account of 5 reasons stated therein, the order granting approval of the layout is cancelled.

3. Though several factual averments have been made in the affidavit filed in support of the writ petitions, the learned counsel for the petitioners confines his challenge to the impugned proceedings on the ground that it is in violation of principles of natural Justice since the petitioners were not afforded an opportunity to put forth their objections. On perusal of the impugned order, it is evident that the petitioners were not afforded an opportunity prior to passing the same, especially when the 2nd respondent has cancelled the approval of the layout granted way back in 2011. Therefore, principles of natural Justice would require that the petitioners be afforded an opportunity to put forth their objections. Therefore, the impugned proceedings has to be definitely held to be in violation of principles of natural Justice. However, this Court is not inclined to quash the impugned proceedings at this juncture and the appropriate course would be for the petitioners to treat the impugned proceedings as a show cause notice. This would be appropriate because in the impugned proceedings, 5 reasons have been assigned as to why the layout approval has been cancelled. The petitioners should be afforded an opportunity to put forth their objections in writing, produce all supportive documents and thereafter the 2nd respondent should conduct an enquiry into the matter affording an opportunity of personal hearing to the petitioners and pass orders on merits and in accordance with law. In the course of such hearing, the 2nd respondent shall consider the submission made by the petitioners that the demand for No Objection Certificate from the Archaeological Survey of India (ASI) is beyond the scope of Section 19 of The Ancient Monuments and Archaeological Sites and Remains Act, 1958 and therefore, it is contended that No Objection Certificate from ASI is not required. This issue should also be decided on merits and in accordance with law.

4. In the light of the above, all the Writ Petitions are disposed of, by directing the petitioners to treat the impugned proceedings as show cause notices and the petitioners shall submit their objections within a period of four weeks from the date of receipt of a copy of this order and on such objections being received by the 2nd respondent, the 2nd respondent shall conduct a personal hearing in the matter and pass final orders on merits and in accordance with law within a period of six

weeks from the date on which the personal hearing is concluded. Till final orders are passed by the 2nd respondent in terms of the directions issued above, the status quo which is prevailing as on date shall be maintained. It is made clear that the petitioners shall not alienate or any manner create any encumbrance on the properties in question not alter the physical features and status quo should be maintained till orders are passed by the 2nd respondent as per the above directions. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. The Member Secretary,
Chennai Metropolitan Development Authority,
"Thalamuthu Natarajan Building",
1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.
2. The Executive Officer,
Madambakkam Town Panchayat,
Chennai - 600 073.

+2cc's to Mr.M/s.Sampath Kumar and Associates,
Advocate, S.R.No.68911
+1cc to Mr.N.Srinivasan, Advocate, S.R.No.68763
+1cc to Mr.K.Raja Srinivas, Advocate, S.R.No.69047

W.P.Nos.40367 to 40373 of 2015

ALA(CO)
CA(18/01/2016)

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