

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.14080 of 2009 and M.P.Nos.1 and 2 of 2009

Vakil Housing Development
Corporation (Private) Limited
rep. By its Director, Mohamed Ali Vakil,
No.78, Koramangala Industrial Area,
Jothi Nivas College Road,
Koramangala, Bangalore - 560 095 ...Petitioner

Vs

1. Chennathur Panchayat
rep. By its President,
Chennathur, Hosur (TK)
Krishnagiri District
2. Hosur New Town Development Authority,
rep. By its Member secretary,
No.25A, Nethaji Road,
Hosur, Krishnagiri District ...Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the Impugned Notice No.485/09/A2 dated 23.06.2009 of the 2nd respondent and to quash the same.

For Petitioner : Mr.R.Parthiban
For Respondents : Ms.A.L.Gandhimathi for R1
Mr.R.Vijayakumar for R2
Additional Government Pleader

O R D E R

Heard Mr.R.Parthiban, learned counsel appearing for the petitioner and Ms.A.L.Gandhimathi, learned counsel appearing for the first respondent and Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the second respondent.

2.Heard the leaned counsel for the parties and perused the materials placed on record.

3.The petitioner is a private limited company engaged in the housing development and the challenge in this Writ Petition is the Impugned Notice issued by the 2nd respondent under Section 56 read with Section 85 of the Tamilnadu Town and Country Planning Act, 1971 stating that the petitioner is putting up un-authorized residential building on the lay out 77/06 at Chennathur Village, Hosur Panchayat Union, Hosur and the petitioner was called upon to restore the land to its original condition within a period of thirty days.

4.At the time when the Writ Petition was admitted on 23.07.2009, an order of Interim Stay was granted. The petitioner has challenged the impugned proceedings on the ground that impugned notice is in violation of principles of natural justice and no reasons have been assigned as to why the petitioner should stop the construction. Further it is submitted that all sanctions have been obtained in requisite, fees has been paid and gift deed has been executed in favour of the 1st respondent, Panchayat that there are 317 plots in the lay out and the purchasers of the plots are constructing their houses after obtaining requisite sanction and permission from the panchayat. Therefore it is submitted that the impugned order is illegal.

4.The counter affidavit filed by the first respondent virtually supports the stand taken by the petitioner.

5.The 2nd respondent in their counter affidavit has submitted that the 2nd respondent is competent authority to grant planning permission and the approval of the lay out granted by the first respondent is only with regard to the lay out and not in respect of the construction put up in the plots. It is submitted that the petitioner neither submitted building planning permission nor obtained any approval from the 2nd respondent and therefore the action initiated by the 2nd respondent is proper and valid. It is further stated that in pursuant to the interim order granted by this Court in the Writ Petition construction is already completed.

6.After hearing the learned counsel for the parties and perusing the materials placed on record, it is seen that the 2nd respondent has issued impugned notice to the Writ Petitioner, which is a private limited company and promoted the lay out. It is the specific case of the petitioner that the lay out has been approved,

gift deed has been executed in favour of the Panchayat in respect of the common area and the purchasers of the plots are constructing housing after obtaining due permission. In such circumstances, the notice issued to the petitioner is unsustainable. If at all there is any violation or deviation or construction effected by any of the purchasers, then it is open to the appropriate planning authority to take action. The petitioner's further case is that planning permission has been accorded by the panchayat to the purchasers of the plots. Therefore, the petitioner has not applied for any permission for construction of house and it is the persons, who have purchased the plots applied for permission. Therefore, the impugned order issued to the petitioner is not sustainable and the Impugned order stands quashed and the Writ Petition is allowed. However this will not prevent the authorities from initiating action against the persons, who have put up construction in violation of the planning permission given by the first respondent and if such action is proposed against those persons, it shall be done strictly in accordance with law. Consequently connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The President,
Chennathur Panchayat
Chennathur, Hosur (TK)
Krishnagiri District
2. The Member secretary,
Hosur New Town Development Authority,
No.25A, Nethaji Road,
Hosur, Krishnagiri District.

1 cc to Ms.A.L.Gandhimathi, Advocate, SR.No.6177

1 cc to Mr.R.Parthiban ,Advocate, SR.No.6057

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gj (co) pmk.18.2.2015