

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2016

C O R A M

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.22844 of 2015

and

MP.No.1 of 2015

M.Thamarai

... Petitioner

Vs

1. The Executive Engineer
Works Department
Town Planning Section
Corporation of Chennai
Ripon Building, Chennai -600 003

2. The Executive Engineer
(Town Planning)
Zonal Office (South)
Corporation of Chennai
No.115, Dr.Muthulakshmi Salai
Adyar, Chennai -600 020

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a certiorarified mandamus calling for the records pertaining to Planning permission in PPA/WDCN 13/02687/2014 dated 27.05.2015 and quash the same and further direct the second respondent to approve planning and building permission to put up construction in the property situate at Plot No.39-A in 4th Street Anna Nagar Extension, Velachery Chennai-600 042 comprised in S.Nos.316/1 and 318/1 T.S.No.8 and 7 measuring a total extent of 1200 square feet.

For Petitioner : Mr.S.Suresh

For R1 : Mr.R.Rajeswaran
Special Government Pleader

For R2 : Mr.P.V.Selvakumar

O R D E R

Heard Mr.S.Suresh, learned counsel for the petitioner, Mr.R.Rajeswaran, learned Special Government Pleader appearing for the first respondent and P.V.Selvakumar, learned standing counsel for the second respondent.

2. This is the second time, the petitioner has approached this Court seeking necessary direction to enable her to obtain a planning permission to put up construction in an extent of 1200 square feet of land purchased by her vide sale deed dated 21.11.2012, pursuant to which a settlement deed was executed on 19.12.2013.

3. The second respondent rejected the petitioner's application for grant of planning permission stating that the land to the extent of 43.62 square metre in old S.No.318/1 belongs to the Corporation of Chennai and it is a OSR land vide approved lay out 231/74. Further it was stated that the suit filed by the petitioner in O.S.No.1530 of 2013 for permanent injunction is pending before the XIII Assistant City Civil Court, Chennai. The petitioner challenged the order of rejection passed by the second respondent before this Court in WP.No.8302 of 2015 primarily contending that the said order is a non speaking single line order. This Court accepted the contention of the petitioner and by order dated 24.03.2015 quashed the order of rejection passed by the second respondent and remitted the matter to the first respondent with a direction to pass a speaking order, after affording an opportunity of hearing to the petitioner and after considering the documents produced by her. Based on such direction, a personal hearing was afforded to the petitioner and she attended the enquiry along with her husband on 29.4.2015 and thereafter, the impugned order has been passed on 27.5.2015. Though the impugned order is a three page order, it is still a non speaking order since except the last paragraph in page No.3 of the impugned order, all other averments set out in the impugned order are about the writ petition which was allowed by this Court on 24.3.2015. In the impugned order, the respondent once again reiterated the stand already taken by them that the said extent of land belongs to the Corporation of Chennai and it is a OSR land. However, there is no documents to establish the same.

4. The learned counsel for the petitioner submitted that only an extent of 43.62 square metre is stated to be a OSR land and in respect of the remaining extent of land, the petitioner's application for planning permission can be considered. It is the contention of the learned counsel for the petitioner that the

suit filed by the petitioner is only for bare injunction and in any event, the Corporation has to produce documents to substantiate their claim that the land to the extent of 43.62 square metre is a OSR land.

5. Taking into consideration the above facts and also taking note of the fact that the Civil Suit is pending at the instance of the petitioner, instead of setting aside the impugned proceedings, the writ petition is disposed of with a direction to the petitioner to submit a revised plan, leaving out the extent of 43.62 square metre, requesting to grant planning permission for the remaining extent of land and if such application is being made, the respondents shall consider the same in accordance with law, within a period of eight weeks from the date of submission of such application. No costs. Consequently, connected miscellaneous petition is closed. It is made clear that the application which is to be submitted by the petitioner is without prejudice to her rights and contentions raised by her that there is no OSR land and the same shall be agitated by the petitioner before the Civil Court.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To

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No.115, Dr.Muthulakshmi Salai
Adyar, Chennai -600 020

+lcc to Mr.S.Suresh, Advocate, S.R.No.17398

+lcc to Mr.P.V.Selvakumar, Advocate, S.R.No.17547

W.P.No.22844 of 2015

CTK(CO)

CA(01/04/2016)