

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Writ Appeal No.1260 of 2016
and
C.M.P.No.16221 of 2016

K.R.E.Arumugam,
Managing Director,
Sree Thirumalai Electronics Pvt. Ltd.,
Registered Office at
No.346/102, Kumaran Road,
Tiruppur. ... Appellant

Vs.

1. The Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009.
2. The Member Secretary,
Hosur New Town Development Authority,
Hosur, Krishnagiri District.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 30.08.2016 passed by the learned single Judge of this Court, in W.P.No.30132 of 2016.

WP.NO.30132/2016:Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned letter passed by the 1st respondent in his letter NO.5453/ UD4(1)/ 2014-9 dated 20.7.2016 and quash the same and consequently directing the respondents to reduce the space for reservation from 15% to 10% in so far relates to the petitioners layout situated in S.F.No.354/1A1 354/2A 355/1 and 357 Mookandapalli Village Hosur Taluk Krishnagiri District

For appellant : Mr.C.Prakasam
For respondents : Mr.R.Prathap Kumar, Addl.G.P.

JUDGMENT

(The Judgment of the Court was delivered by Huluvadi G.Ramesh,J)

This Writ Appeal is filed against the order dated 30.08.2016 passed by the learned single Judge of this Court, in W.P.No.30132 of 2016, in and by which, the learned single Judge has dismissed the Writ Petition filed by the appellant/writ petitioner for quashing the order dated 20.07.2016 passed by the first respondent and to direct the respondents to reduce the space for reservation from 15% to 10% insofar as it relates to the writ petitioner's layout situated in S.F.No.354/1A1, 354/2A, 355/1 and 357, Mookkandapalli Village, Hosur Taluk, Krishnagiri District.

2. Heard the learned counsel for the appellant/writ petitioner and the learned Additional Government Pleader appearing for the respondents/State and perused the materials available on record.

3. We have gone through the impugned order passed by the learned single Judge. The appellant/writ petitioner prays for reducing the space for reservation from 15% to 10% insofar as the writ petitioner's layout is concerned, on the ground that it has been considered in the case of others way back in the year 1980 as per the layout plan and hence, the appellant/writ petitioner seeks the same benefit. The learned single Judge rejected the said plea of the writ petitioner, on the ground that it would amount to re-opening the entire issue and in that process, third parties as well as the public interest will be affected, more so, when the approval of the layout of the appellant/writ petitioner was granted as early as in 1984, and that after a period of more than two decades, the writ petitioner herein cannot claim any benefit, even if any benefit is given to some third parties or to the Government Instrumentalities, coupled with the fact that the Master Plan for the Hosur New Town Development Authority already came into force by then and that if any project or layout has to be approved, it would only be as per the second Master Plan. In the above context, it would be appropriate to extract paragraph 4 of the impugned order passed by the learned single Judge:

"4. It is seen that the petitioner got the approval of layout as early as on 29.09.1984. Acting upon the approval, the petitioner also made construction. The construction has been made as per the approved layout earmarking 15% and 14.5% of total area for park and road respectively. Therefore, the approval in toto has been accepted by the petitioner, acted upon and executed. When that is the position, merely because of the fact that subsequently 10% has been reserved as OSR while granting approval for construction of Samathuvapuram and Housing Board, the petitioner cannot seek reduction of OSR from 15% to 10%. If any exercise is done, it will amount to re-opening of the entire issue and in that process, third parties as well as the public interest will be affected. Secondly, the approval was granted as early as 1984. After a period of more than two decades, the petitioner cannot claim any benefit, even if any benefit is given to some third parties or to the Government Instrumentalities. Therefore, the authorities rightly rejected the petitioner's claim. Moreover, the master plan for the Hosur New Town Development Authority has already come into force and if any project or layout has to be approved, it is as per the second master plan. In view of that also, the relief claimed by the petitioner cannot be granted. Hence, the order passed by the authorities are sustainable. The writ petition fails.

5. In the result, this writ petition is dismissed. No costs. Consequently, connected W.M.P. is closed."

4. When the fact remains that at the relevant point of time, as per the relevant Government Order(s) and Act/Rules in force, the Writ Petitioner has been given approval of layout in question with 15% reservation of space (OSR), in our considered view, the petitioner cannot seek for reduction of the space from 15% to 10% on the ground that some others have been given the benefit.

5. We find no reason to interfere with the well-considered reasonings given by the learned single Judge. Hence, the Writ Appeal is dismissed. No costs. Consequently, C.M.P. is closed.

-s/d-

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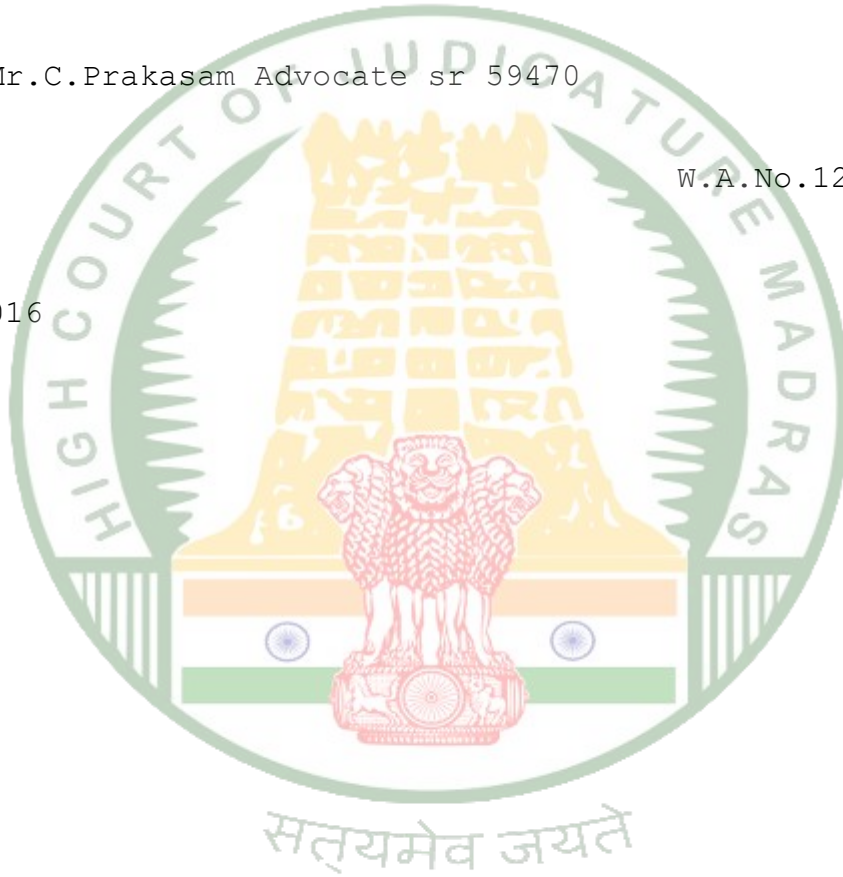
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1. The Secretary to Government,
Housing and Urban Development Department,
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2. The Member Secretary,
Hosur New Town Development Authority,
Hosur, Krishnagiri District.

+1 cc to Mr.C.Prakasam Advocate sr 59470

W.A.No.1260 of 2016

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