

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2016

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P.No.30132 of 2016

&

WMP No.26100 of 2016

K.R.E.Arumugam

... Petitioner

Vs.

1. The Secretary to Government,  
Government and Urban Development Department,  
Fort St.George,  
Chennai-600 009.

2. The Member Secretary,  
Hosur New Town Development Authority,  
Hosur, Krishnagiri District.

... Respondents

Prayer: 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 20.07.2016 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 petitioner's layout situated in S.F.No.354/1A1, 354/2A, 355/1 and 357, Mookkandapalli Village, Hosur Taluk, Krishnagiri District.

For Petitioner : Mr.C.Prakasam

For R-1 : Mr.T.M. Pappiah,  
Special Government Pleader

For R-2 : Mr.V. Jayaprakash Narayanan  
Special Government Pleader

O R D E R

The petitioner is the Managing Director of the company called Sree Thirumalai Electronics Pvt. Ltd., Hosur. For the purpose of providing quarters to its employees, the petitioner made a lay out comprised in S.F.Nos.354/1A1, 354/2A, 355/1 and 357, Mookkandapalli Village, Hosur Taluk, Krishnagiri District

to an extent of 5.41 acres in the year 1984. Based on the application of the petitioner, lay out approval was granted on 29.09.1984.

2. As per the approved plan, 15% of the total area and 14.52% of the total area have to be reserved for park and road respectively. Subsequently, master plan for the Hosur New Town Development Authority under the Tamil Nadu Town and Country Planning Act, 1971 came into force on 24.04.1984 by virtue of G.O.Ms.No.337 Housing and Urban Development Department. Stating that only 10% is being reserved as OSR area while granting approval for Samathuvapuram and for Tamil Nadu Housing Board by the respondent, the petitioner has given a representation to the respondents for reducing the OSR area from 15% to 10%. The said request of the petitioner was rejected. Challenging the same, the petitioner approached this court in Writ Petition No.13803 of 2012 and this Court directed the petitioner to file appeal before the first respondent. Accordingly, the petitioner preferred appeal and pursuant to the orders passed in WP No.11140 of 2014 dated 21.04.2014, the first respondent disposed up the appeal on 20.07.2016 confirming the rejection order passed by the second respondent. The said order of rejection passed by the first respondent is being challenged before this court.

3. Heard Mr.C.Prakasam, learned counsel appearing for the petitioner, Mr.T.M.Pappiah, learned Special Government Pleader appearing for the first respondent and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the second respondent.

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.s is closed.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rgr

To

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

+1cc to Mr.C.Prakasam, Advocate, S.R.No.49390  
+1cc to the Government Pleader, S.R.No.49838

W.P.No.30132 of 2016

BVR(CO)  
CA(15/09/2016)

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