

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2017

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE M.SUNDAR

W.P.No.2171 of 2011

PMR Educational Trust,
rep. by its Trustee P.Markannathas,
Plot No.2036, 15th Main Road,
Anna Nagar West,
Chennai-600 040. ... Petitioner

-Vs-

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai-600 008.
2. The Commissioner,
Villivakkam Panchayat Union,
at Ambattur.
3. M/s.Red Fort Shahjahan Properties Pvt. Ltd.,
by its Authorised Agent R.D.Muthana,
93-B, Mittal Court,
Nariman Point,
Mumbai - 400 021.
4. M/s.K.G.Fondation (P) Ltd.,
Kishore Kumaar Gokuldoss,
Bishop Wallers Avenue (East),
Mylapore,
Chennai-600 004. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records of the first respondent in Letter No.C3/1341/2009 dated 29.04.2010 and quash the same and direct the first respondent to modify the planning permit dated 16.08.2010 suitably to enforce all the Building Regulations in particular Chennai Metropolitan Area, 2026 Regulation No.27 - Rule 22 (Regulation for group development) and Regulation No.28

- Rule 19 for (Regulation for multi storied buildings) applicable to the 4th respondent by insisting that the 4th respondent should provide a link road through its property from Poonamallee - Red Hills by pass road to reach the adjoining land including the petitioner's land.

For Petitioner : No Appearance

For Respondents : Mr.N.Sampath for R1

No appearance for R2, R3, R4

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner seeks to quash the order of the Chennai Metropolitan Development Authority/respondent No.1 dated 29.04.2010 with a direction to modify the planning permit dated 16.08.2010 in order to facilitate the provision of link road through the property of respondent No.4 from Poonamallee - Red Hills bypass road.

2. On the last date of hearing, a request for an adjournment was made on behalf of the learned counsel for the petitioner. Today none is present.

3. We have heard the learned counsel for respondent No.1/CMDA, who has drawn our attention to the counter-affidavit now filed on 03.02.2017. It has been affirmed that the petitioner has no right to claim access through the private lands for its students. The reason why, the request has been rejected, has been set out in paragraph 4, which reads as under:-

"4. I submit that as per the site inspection report of the PPA, construction of Service Block No.7 was commenced. It abuts 59.50 meter (Ambattur-Vanagaram Bypass Road) HT line passes through the site under reference at north east corner. On rear side there is a college gaining access by two public roads and in as much as the rear side site is already developed there is no need to provide access through the site under reference. Further, creating additional puncture in a Bye pass road is not desirable. In as much as the petitioner has access to his site and already constructed the building and the additional puncture is not desirable, proving link road in the site under reference is not insisted."

4. The learned counsel for respondent No.1 further states that even if the petitioner is aggrieved, they have appellate remedy under Section 79 of the Tamil Nadu Town and Country Planning Act, 1971, which the petitioner has not exhausted.

5. In view of the aforesaid submission, we are of the view that the writ petition is liable to be dismissed.

6. The writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai-600 008.
2. The Commissioner,
Villivakkam Panchayat Union,
at Ambattur.

+1cc to Mr.N.Sampath, Advocate, S.R.No.7711

+1cc to Mr.V.Vaithiyalingam, Advocate, S.R.No.7644

+1cc to the Government Pleader, S.R.No.7494

सत्यमेव जयते

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VSN(CO)

CA(14/02/2017)

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