

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2017

CORAM

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

W.P.No.11303 of 2002

M/s.Madras Cements Limited
having its Corporate Office at
No.98-A, Auras Corporate Centre,
V Floor, 98-A, Dr.Radhakrishanan Road,
Mylapore,
Chennai-600 004. Petitioner

Vs.

1.Director of Town and Country Planning,
Chennai.

2.The Deputy Director of Town and Country Planning,
Madurai.

3.The President,
Thulukkapatti Second Grade Panchayat,
R.R.Nagar,
Virudhunagar Panchayat Union,
Virudhunagar District,
Thulukkapatti - 626 204.

4.The Member Secretary,
Tamil Nadu Pollution Control Board,
Guindy,
Chennai-600 032.

5.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Virudhunagar.

6.Krishnasamy Naicker

7.Ramar Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, forbearing the respondents 1 and 2 from in any manner granting any permission for construction of residential premises in an industrial area and adhere to the resolution passed by the 3rd respondent dated 09.12.2000 to the effect that no activity for construction of residential premises can be carried out in the

Survey Nos.22/2B, 23/1A and 23/2A in Thulukkapatti Village, which has been treated as an industrial area.

For Petitioner : Mr.Rahul Balaji
For Respondents : Mr.M.Elumalai,
Government Advocate
for R1 to R3.

ORDER

The prayer sought for in this Writ petition is for a Writ of Mandamus, forbearing the respondent Nos. 1 and 2 from in any manner granting any permission for construction of residential premises in an industrial area and adhere to the Resolution passed by the respondent No.3 dated 09.12.2000 to the effect that no activity for construction of residential premises can be carried out in Survey Nos.22/2B, 23/1A and 23/2A in Thulukkapatti Village, which has been treated as an industrial area.

2.Heard the learned counsel appearing on either side.

3.The learned counsel appearing for the petitioner submits that the petitioner is an industry and around the said industrial place, the said Survey Nos.22/2B, 23/1A and 23/2A in Thulukkapatti Village, are situated.

4.The said land belongs to the respondent Nos.6 and 7. Since the respondent Nos.6 and 7 were trying to exploit the said property for making some residential constructions, the petitioner has filed this Writ Petition with the aforesaid prayer seeking for a prohibitory order by way of Mandamus, forbearing the respondent Nos.1 and 2 from granting permission for construction of residential building at the aforesaid land belongs to respondent Nos.6 and 7.

5.The 1st respondent is the Competent Authority to consider and grant layout permission/building permission under the Tamil Nadu Town and Country Planning Act. Admittedly, the land which is in question belongs to the respondent Nos.6 and 7, who are the private persons. If at all, the respondent Nos. 6 and 7 want to make any construction for residential purpose, it is for them to approach the appropriate Planning Authority to get necessary permission and in this regard, it is for the Authorities to take such a plea and to decide the same in accordance with law.

6.In this regard, the petitioner since is no way connected with the subject property, which is admittedly belonged to the respondent Nos.6 and 7, can not seek any prohibitory order by

invoking the extraordinary jurisdiction under Article 226 of the Constitution of India, restraining the respondent Nos.1 and 2 from giving any permission or Plan Approval for the proposed construction of the respondent Nos. 6 and 7.

7.It is well settled principle of law that, a statutory authority cannot be injuncted or prohibited from exercising their powers vested under the statute. Here, the very prayer sought for in this Writ Petition is in the nature of restraining the statutory authority from functioning under the provision of the said Act and therefore, this Court is of the firm view that this Writ Petition cannot be entertained and therefore, the prayer sought for in this Writ Petition cannot be granted.

In view of the above, the Writ Petition deserves to be dismissed. Accordingly, it is dismissed. However, it is open to the petitioner to approach the appropriate Civil Forum, still the petitioner has got any grievance against the respondent Nos.6 and 7, who are the private persons. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

mps

To

1.The Director of Town and Country Planning,
Chennai.

2.The Deputy Director of Town and Country Planning,
Madurai.

3.The President,
Thulukkapatti Second Grade Panchayat,
R.R.Nagar,
Virudhunagar Panchayat Union,
Virudhunagar District,
Thulukkapatti - 626 204.

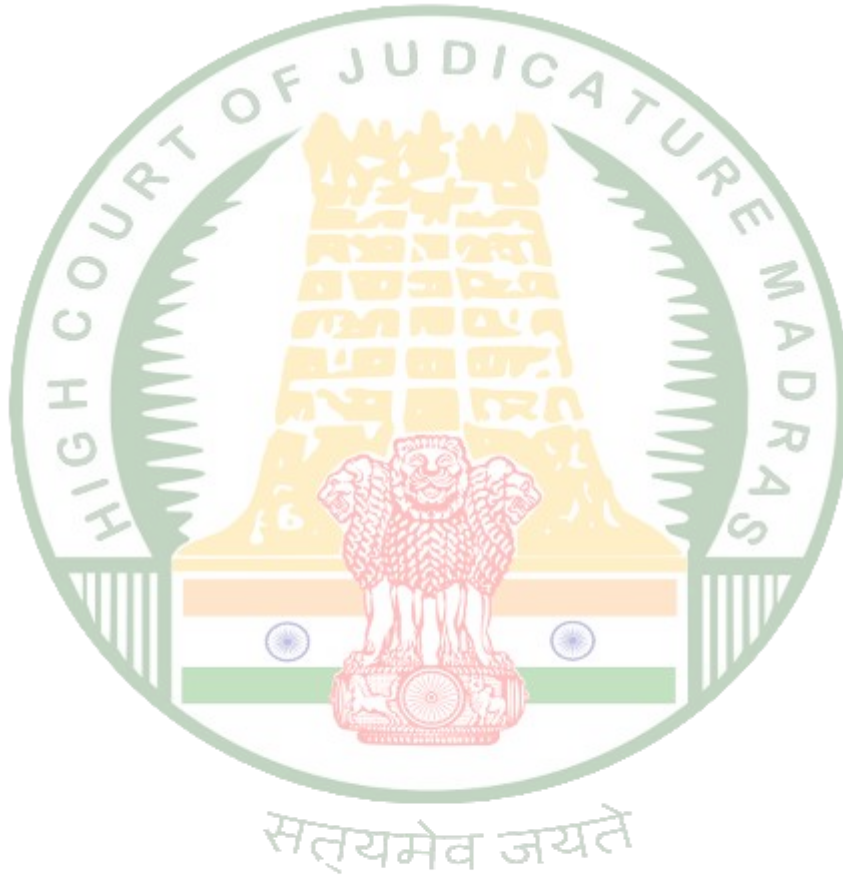
4.The Member Secretary,
Tamil Nadu Pollution Control Board,
Guindy,
Chennai-600 032.

5.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Virudhunagar.

+1cc to Mr.R.PARTHASARATHY, Advocate, S.R.No. 86195
+1cc to Mr.RITA CHANDRASEKAR, Advocate, S.R.No. 85779

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SV(CO)
TR(02/01/2018)



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