

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.Nos.10172 to 10178 of 2017

K.Purushothaman

rep. By his power of attorney

R.Vasanti Ram Narayanan ...Petitioner in WP.No.10172/2017

*** R.Vasanti Ram Narayan** ... Petitioner in WP.No.10173/2017

K.Purushothaman

rep by his Power of Attorney

Preethi Nanda ... Petitioner in WP.No.10174/2017

*** R.Vasanti Ram Narayan**

rep by her Power of Attorney

*** Mrs.Preethi Nanda** ... Petitioner in WP.No.10175/2017
and WP. 10177/2017

K.Purushothaman

rep by his power of Attorney

S.R.Nanda Kishok ... Petitioner in WP.No.10176/2017

*** M/s.Shabhari Real Estate Pvt Ltd,**
Chennai -600 064

Rep by its Managing Director

Mr.S.Sekar

rep by its Power of Attorney

S.R.Nanda Kishore ... Petitioner in WP.No.10178/2017

सत्यमेव जयते
Vs.

1. The Member Secretary,
Chennai Metropolitan Development Authority,
"Thalamuthu Natarajan Building",
No.1, Gandhi Irwin Road, Egmore,
Chennai-600 008.

2. The Executive Officer,
Madambakkam Town Panchayat,
Chennai-600 073.

...Respondents in all WP's

PRAYER in all the petitions: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ

of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 2nd respondent under Ref.Na.Ka.No.237/2015 dated 04.01.2017 and quash the same and consequently direct the respondents to confirm the layout as originally applied for by the petitioners.

For Petitioner : Mr.V.Ramesh
for M/s.Sampathkumar and Associates
For Respondents : Mr.P.Tamilmani (for R1)
Mr.R.Ravichandran (for R2)

COMMON ORDER

The prayer in these writ petitions is for issuance of a writ of certiorarified mandamus to quash the impugned order of the second respondent dated 04.01.2017.

2. These writ petitions have been filed by the power agents of the original owners. The petitioners would state that they submitted a layout for approval of the second respondent after executing gift deed in respect of the road in Sub-Registrar Office, Selaiyur and the second respondent sanctioned the layout on 26.05.2011 and 15.06.2011. While so, the second respondent without giving any opportunity to the petitioners cancelled the layout, vide his letter, dated 22.05.2015. The order of the second respondent was challenged in earlier writ petitions in W.P.Nos.40367 to 40373 of 2015 and this Court, by an order, dated 21.12.2015, disposed of the writ petitions with an observation to treat the impugned proceedings as show cause notice and directed the petitioners to submit his objections within a period of four weeks. On such objections being received, the second respondent was directed to pass final orders on merits and in accordance with law, within a period of six weeks, after providing an opportunity of personal hearing to the petitioners.

3. The petitioners would submit that they submitted their objections within time. But the second respondent has not passed orders, in compliance of the order of this Court and the reasons given in the impugned order are contrary to the law and they are liable to be set aside.

4. The layout approval has been cancelled for the reasons that No Objection Certificate has not been obtained from Archeology Department of India, no proper road has been laid and no separate document has been produced. Moreover, the water channel running from Madambakkam lake to Nuthencheri is running through the said layout and from Nuthencheri the water is irrigated to agricultural land and surplus water reaches

Arulmigu Dhenupuriswara tank.

5. The learned counsel for the petitioner submitted that the reason for cancellation is nothing but a communication from the first respondent dated 30.03.2015, in and by which, the seven sub-divisions got on 26.05.2011 and 15.06.2011 were cancelled by the second respondent on the ground that No Objection Certificate from Archeology Department is not obtained.

6. According to the learned counsel for the petitioner, NOC from Archeology Department is not required for obtaining layout sanctioning and there is no excess of delegation of power exercised by the second respondent.

7. It is further submitted that the writ petition in W.P.No.22583 of 2012 has been filed challenging the communication of the Archeology Department, directing the promoters to get NOC for approving the layout and in the event of that writ petition is allowed, the order impugned in these writ petitions have to be set aside. If the cancellation of sub-division is held to be valid, a direction can be issued to the respondents to return the various payments made by the petitioner for obtaining sub-division and re-classification and that after direction to the second respondent to cancel all gift deeds.

8. Per contra, the learned counsel for the first respondent by referring the counter affidavit filed by the first respondent submitted that the second respondent has exceeded the power delegated by the first respondent in granting approval to the sub-divisions made by the petitioners and the cancellation order was passed on valid ground, which does not warrant interference by this Court.

9. Even though, there is no specific provision to obtain NOC from the Archeology Department, for getting lay out plan approval, this Court in W.P.22583 of 2012, in the interest of justice, directed the promoters to obtain NOC from the Archeology Department. Hence, I find no merit in these writ petitions. In the result, the writ petitions are dismissed. No costs.

Sd/-

Assistant Registrar(CS IV)

Dated: 13/06/2018

*** Corrected to be issued by**

Sd/- Sub Assistant Registrar

Dated 03/09/2018

//True copy//

Sub Assistant Registrar

pvs

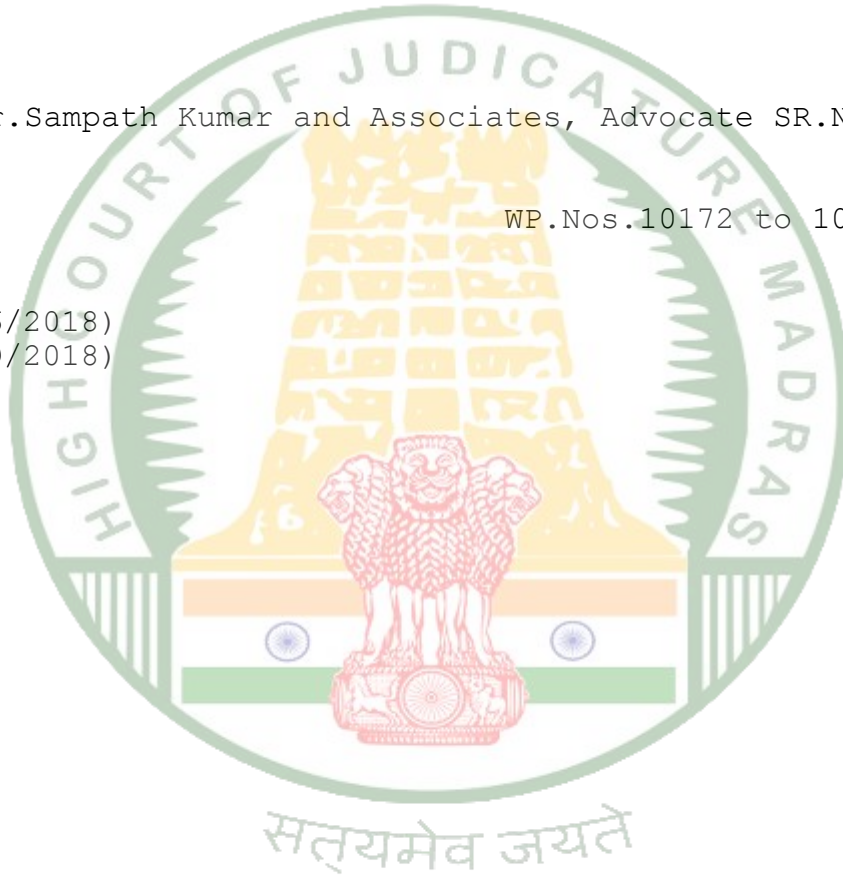
To

1. The Member Secretary,
Chennai Metropolitan Development Authority,
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No.1, Gandhi Irwin Road, Egmore,
Chennai-600 008.
2. The Executive Officer,
Madambakkam Town Panchayat,
Chennai-600 073.

+7cc to Mr.Sampath Kumar and Associates, Advocate SR.No.35470

WP.Nos.10172 to 10178 of 2017

RSK(CO)
GN(14/06/2018)
GN(03/09/2018)



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