

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2018

CORAM

THE HON'BLE MR. JUSTICE K.K.SASIDHARAN
and
THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.A. No.345 of 2015

S.Selvakumar

..Appellant/Petitioner

Vs.

1.The Director,
Government Country Planning,
Chennai - 2.

2.The Deputy Director,
Government Country Planning
Department,
Coimbatore - 8.

3.The Commissioner,
Pollachi Municipality,
Pollachi.

..Respondents/Respondents

Appeal filed under Clause 15 of Letters Patent Act against the order dated 31.07.2013 made in W.P.No.3313 of 2012. Wrti Petition's filed under Art.226 of the constitution of India, praying to issue a writ of certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 1st respondent dated 06.06.2011 in proceeding No.Na.Ka.No.11623/2011 LA2 on the file of the 1st respondent and quash the same and consequently direct the respondent to cancel the technical approval in respect of the layout in H Block No.4 T.S.No.13/2 measuring 1.10 Acres situated at kotampatty Pollachi Kovai District.

For Appellant .. Mr.V.Raghavachari

For Respondents.. Mr.V.Anandamoorthy,
Addl. Govt. Pleader

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The appellant initially submitted an application for approval of layout in T.S.No.13/2. The second respondent sanctioned the layout. Thereafter, application was submitted by the appellant to cancel the layout, as according to him, a decision was taken not to proceed with the formation of layout. The application was processed by the Town and Country Planning Department and by order dated 04.10.2013, it was decided to permit the cancellation of layout subject to the condition that the appellant has to form 80 feet road and it should be handed over to the local authority. The said order was unsuccessfully challenged before the writ Court. The order passed by the learned single Judge dated 31.07.2013 in W.P.No.3313 of 2012 directing the appellant to move the appropriate forum is under challenge in this Intra Court appeal.

2.The learned counsel for the appellant contended that the appellant has not developed the land pursuant to the permission given by the statutory authority. According to the learned counsel, third party interest has not crept in and as such, the statutory authority was not correct in negating the request.

3.Since the appellant has taken up a contention that there was no development at his instance after obtaining the layout, we had directed the learned Additional Government Pleader to file a report after inspection by the competent authority as to whether the appellant developed the layout and as to whether it was sold to third parties.

4.The report dated 04.02.2018 submitted by the second respondent indicated that there was no development pursuant to the layout approval granted to the appellant.

5.The learned Additional Government Pleader, on instructions from the respondents, submitted that the land on both the sides of the layout proposed by the appellant, was developed by the neighbouring owners. There is a proposal to lay a road through the land owned by the appellant. It was only under such circumstances the second respondent directed the appellant to provide the road as a condition precedent for cancelling the layout approval.

6.There is no dispute that pursuant to the layout approval given by the statutory authority, development work was not undertaken by the appellant. The appellant wanted cancellation of the earlier order approving the layout. The information

furnished by the second respondent indicates that the appellant neither developed nor sold the plots to third parties. The fact that there is a proposal for formation of a road through the land owned by the appellant cannot be a reason to reject the application for cancellation of the layout approval granted earlier. It is always open to the respondents to acquire the land in case the same is required for a public purpose. In any case, the respondents cannot be heard to say that unless a road is formed through the land, permission would not be given for cancellation of layout approval. We are therefore of the view that the learned single Judge was not correct in negating the claim made by the appellant.

7.The order passed by the second respondent dated 04.10.2013 is set aside. We direct the second respondent to grant approval for cancellation of layout without prejudice to the right to take action for acquisition for the formation of road in the manner known to law.

8.The Intra Court Appeal is allowed to the extent indicated above. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Director,
Government Country Planning,
Chennai - 2.
- 2.The Deputy Director,
Government Country Planning
Department, Coimbatore - 8.
- 3.The Commissioner,
Pollachi Municipality, Pollachi.

+ 1 cc to Government Pleader Sr.9410

+ 1 cc to Mr.M. Naraayana Swamy, Advocate SR.8568

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CA(CO)
EU(26/02/2018)