

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2018

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P No.30152 of 2016

J.Manojalakshmi

..Petitioner

Vs

1.The Commissioner,
Kundrathur Panchayat Union,
Padappai,
Kancheepuram District.

2.The Tahsildar,
Sriperumbudur Taluk,
Kancheepuram District.

3.N.Maheswaran .. Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the 1st respondent to forthwith cancel the building plan approval / building planning permit No.771/2013-14 and 772/2013-14, dated 26.7.2013, granted to the 3rd respondent herein in respect of his lands bearing Plot Nos.40 and 41 comprised in Survey No.381/1B2B in Varadarajapuram Village, Sriperumbudur Taluk, Kancheepuram District.

For Petitioner : Ms.AL.Ganthimathi
For Respondents : Mr.A.S.Thambusamy, for R1
Mr.B.Anand
Government Advocate, for R2
No appearance for R3

O R D E R

This writ petition has been filed seeking a writ of mandamus, directing the first respondent to cancel the building plan approval / building planning permit No.771/2013-14 and 772/2013-14, dated 26.7.2013, granted to the third respondent, in respect of the petitioner's land bearing Plot Nos.40 and 41 comprised in Survey No.381/1B2B in Varadarajapuram Village, Sriperumbudur Taluk, Kancheepuram District.

2. Heard Ms.AL.Ganthimathi, learned counsel for the petitioner, Mr.A.S.Thambusamy, learned counsel for the first respondent, Mr.B.Anand, learned Government Advocate appearing for the second respondent and none appeared for the third respondent.

3. The case of the petitioner is that, she is the absolute owner of the land measuring to an extent of 11,116 sq.ft., bearing Plot Nos.10,11 and 12 comprised in Survey No.381/1B1B (Old S.No.38/1), in Varadarajapuram Village, Sriperumbudur Taluk, Kancheepuram District, by virtue of a registered sale deed dated 01.04.2010. The petitioner would further state that the third respondent is the owner of the property bearing Plot Nos.40 and 41 in Survey No.382/1B2B.

4. The grievance of the petitioner is that, while seeking planning permission for construction of flats in Plot Nos.40 and 41, the third respondent had shown the petitioner's property bearing Plot Nos.10 and 11 as approach road. Based on the application, the first respondent had granted planning permission to the third respondent. Thereafter, the petitioner sent representations to the respondents to cancel the planning permission granted infavour of the third respondent. Since no action was forth coming, the present writ petition.

5. In the counter affidavit filed by the first respondent, it is stated that in the Key Plan, the third respondent had shown the property in S.No.381/1B1B (Old S.No.381/1) as approach road of his property to the Dharga Road. At the time of inspection by the authorities concerned, all the properties were vacant land and after scrutinizing the documents, planning permission was granted in the year 2013. It is further stated that after receipt of the notice in the writ petition, the first respondent verified with the records and found that the third respondent had submitted wrong information showing the petitioner's property as the approach road and abutting road to reach Dharga Road. The first respondent has right to revoke or modify the planning permission, since the planning permission was given on misrepresentation or wrong information.

6. In the instance case, the only grievance of the petitioner is that since the third respondent had shown the property of the petitioner as approach road, the petitioner could not get planning permission for her property. This fact is not disputed by the respondents. It is stated that the third respondent had already constructed flats and sold to the third parties and the owners of the flats have an alternative access to reach their property. Hence cancellation of planning permission granted to the 3rd respondent would no way help the petitioner.

7. Taking note of the above facts, this Court, directs the

first respondent to pass necessary orders, deleting the approach road shown in the approved plot of the third respondent as property of the petitioner and consider application for granting building plan approval in accordance with law.

8. With the above directions, this writ petition is disposed of. However, there shall be no order as to costs.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

ms

To

1.The Commissioner,
Kundrathur Panchayat Union,
Padappai,
Kancheepuram District.

2.The Tahsildar,
Sriperumbudur Taluk,
Kancheepuram District.

+1 CC to M/s.A.L. Gandhimathi, Advocate sr 27927
+2 Ccs to Mr.D. Parthasarathy, Advocate sr 27623.
+1 CC to Mr.A.S. Thambu Samy, Advocate sr 28412.
+1 CC to Govt. Pleader sr 28135

सत्यमेव जयते

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SP(08/05/2018)

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